

## **ARTICLE 5. ZONING DISTRICT REGULATIONS**

### **ARTICLE 5. ZONING DISTRICTS..... 3**

#### **DIVISION I. ESTABLISHMENT OF ZONING DISTRICTS..... 3**

Sec. 18-164. Zoning districts established.....	3
Sec. 18-165. Official zoning map.....	4
Sec. 18-166. Rules for interpretation of district boundaries.....	4

#### **DIVISION II. DISTRICT REGULATIONS..... 5**

Sec. 18-173. Introduction.....	5
Sec. 18-174. Exceptions to area and height standards.....	6
Sec. 18-175. Zoning affects use of land and structures.....	7
Sec. 18-176. Number of principal buildings on a lot.....	8
Sec. 18-177. R-20, Residential District.....	8
Sec. 18-178. R-15, Residential District.....	10
Sec. 18-179. R-10, Residential District.....	12
Sec. 18-180. R-7, Residential District.....	14
Sec. 18-181. R-5, Residential District.....	16
Sec. 18-182. R-3, Central City Residential District.....	18
Sec. 18-183. MHP, Manufactured Housing Park District.....	20
Sec. 18-184. Multi-family Residential Districts (MF-L, MF-M, MF-MH, MF-H).....	22
Sec. 18-185. MX, Mixed Use District.....	28
Sec. 18-186. PD, Planned Development District.....	48
Sec. 18-187. HD, Historic District.....	48
Sec. 18-188. HDMU, Historic District-Mixed Use.....	48
Sec. 18-189. HD-R, Historic District--Residential.....	48
Sec. 18-190. (O&I-1), Office and Institutional District 1.....	48
Sec. 18-191. (O&I-2), Office and Institutional District 2.....	48
Sec. 18-192. NB, Neighborhood Business District.....	48
Sec. 18-193. MSMU, Main Street Mixed Use.....	48
Sec. 18-194. CB, Community Business District.....	48
Sec. 18-195. RB, Regional Business District.....	48
Sec. 18-196. CBD, Central Business District.....	48
Sec. 18-197. CS, Commercial Services District.....	48
Sec. 18-198. LI, Light Industrial District.....	48
Sec. 18-199. IND, Industrial District.....	48
Sec. 18-200. AI, Airport Industrial District.....	48
Sec. 18-201. CEM, Cemetery District.....	48

#### **DIVISION III. OVERLAY DISTRICTS..... 48**

Sec. 18-211. FP, Flood Plain-Overlay District.....	48
Sec. 18-212. SHOD, Special Highway Overlay District.....	48
Sec. 18-213. CO, Corridor Overlay Districts.....	48
Sec. 18-213.1 Dawson-Wooster Corridor Regulations.....	48
Sec. 18-213.2 Wrightsville Avenue Corridor Regulations.....	48
Sec. 18-213.3 South 17th Street/Independence Boulevard Corridor Regulations.....	48
Sec. 18-214. Historic District-Overlay (HD-O).....	48
Sec. 18-215. Conservation Overlay District (COD).....	48

<b>DIVISION IV-Conditional Zoning.....</b>	<b>48</b>
Sec. 18-226. Purpose.....	48
Sec. 18-227. Plans and other information to accompany petition.....	48
Sec. 18-228. Required community meeting before public hearing.....	48
Sec. 18-229. Approval of conditional zoning district.....	48
Sec. 18-230. Conditions to approval of petition.....	48
Sec. 18-231. Effect of approval.....	48
Sec. 18-232. Alterations to approval.....	48
Sec. 18-233. Review of approval of a conditional zoning district.....	48

## ARTICLE 5. ZONING DISTRICTS

### DIVISION I. ESTABLISHMENT OF ZONING DISTRICTS

#### **Sec. 18-164. Zoning districts established.**

In order to regulate the height and size of buildings; to regulate the intensity of land usage; to regulate areas for open space; to regulate the location of land uses; to provide for the improved environment; and to promote the health, safety and general welfare of its citizens, the City of Wilmington is hereby divided into the following zoning districts:

R-20 Residential District  
R-15 Residential District  
R-10 Residential District  
R-7 Residential District  
R-5 Residential District  
R-3 Central City Residential District  
MHP Manufactured Housing Park District  
MF-L Multiple Family Residential District-Low Density  
MF-M Multiple Family Residential District-Medium Density  
MF-MH Multiple Family Residential District-Medium-High Density  
MF-H Multiple Family Residential District-High Density  
MX Mixed Use District  
SHOD Special Highway Corridor Overlay District  
PD Planned Development District  
HD Historic District  
HD-MU Historic District-Mixed Use  
HD-O Historic District-Overlay  
HD-R Historic District-Residential  
O&I 1 Office and Institutional District-General  
O&I 2 Office and Institutional District-Business Center  
NB Neighborhood Business  
MSMU Main Street Mixed Use  
CB Community Business District  
RB Regional Business District  
CBD Central Business District  
CS Commercial Services District  
AI Airport-Industrial District  
LI Light Industrial District  
IND Industrial District  
CEM Cemetery District  
FP Flood Plain Overlay District  
CO Corridor Overlay District

**Sec. 18-165. Official zoning map.**

- (a) The boundaries of the zoning districts established in herein are shown on the series of maps entitled "Official Zoning Map, City of Wilmington, North Carolina," dated November, 1983, which are hereby adopted by reference, together with all explanatory notations thereon, and made a part of this chapter.
- (b) The official zoning maps and ordinance shall be properly attested and copies shall be on file in the offices of the city clerk, the secretary to planning commission, and city engineer. Regardless of the existence of any purported copy of the official zoning maps, the zoning maps located in the office of the secretary to the planning commission shall be the final authority.
- (c) If, in accordance with the provisions of this chapter, changes are made in district boundaries or other references on the official zoning maps, such changes shall be entered on the official zoning maps within seven (7) working days after the amendment has been approved by the City Council. No changes of any nature shall be made on an official zoning map except in conformity with the procedures set forth in Article 3, Division VI of this code. Any unauthorized change of whatever kind by any person shall be considered a violation of this chapter.

**Sec. 18-166. Rules for interpretation of district boundaries.**

The City Manager shall determine the exact location of any zoning district boundary lines whenever uncertainty exists about the boundary lines shown on the official zoning maps, subject to appeal to the board of adjustment provided for in Article 2. The determination of the exact location of a zoning district boundary shall be based upon the following rules:

- (a) Boundaries indicated as approximately following or within a street, alley or railroad right-of-way, or utilities (electrical, gas, water main, etc.) easement, the boundary shall be construed to be in the center of such right-of-way easement;
- (b) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore lines, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, creeks, or other bodies of water shall be construed as following such centerlines;
- (c) Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines;
- (d) Boundaries indicated as approximately following City limits shall be construed as following City limits; and
- (e) Boundaries indicated as parallel to or extension of features indicated in subsections (1), (2), (3) and (4) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

**Secs. 18-167 through 18-172. Reserved.**

## DIVISION II. DISTRICT REGULATIONS

### **Sec. 18-173. Introduction.**

This division contains the specific use and area regulations for each zoning district found in the City. The material has been divided into the following sections:

- (a) *Purpose.* The intended application for each district guiding its placement in relation to either existing or proposed development.
- (b) *Uses Permitted by Right.* The listing of land uses permitted by right in each district.
- (c) *Uses Permitted under Prescribed Conditions.* Those uses allowed in a district when meeting the criteria set forth in the appropriate prescribed conditions and all other applicable requirements established in these regulations.
- (d) *Permitted by Special Use Permit:* Uses permitted in a district subject to the issuance of a special use permit as set forth in Article 3, Division IV herein.
- (e) *Permitted Accessory Uses and Structures.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 of this chapter and all other applicable requirements established in these regulations.
- (f) *Development Standards.* The dimensional standards, buffering requirements and other design standards for each district.  
The use of separate sections to describe the various provisions for each district does not relieve any person from complying with all the requirements for the same district.
- (g) *Interpretation of Permitted Uses.* Because the list of permissible uses set forth in this article cannot be all inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses. Notwithstanding the foregoing sentence, all uses that are not listed in this article, even given the liberal interpretation mandated by this subsection, are prohibited. This article shall not be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts. If a specific use is listed in one of the base zoning districts listed in Sec.18-164 (excluding the MX District), it shall be excluded from the general use categories of business services, personal services, professional services, residential, and retail sales establishments.

### **Sec. 18-174. Exceptions to area and height standards.**

- (a) *In general.* The following requirements or regulations qualify or supplement, as the case may be, the district regulations or requirements appearing elsewhere in this chapter.
  - (1) The following structures and features shall be exempt from the height requirements of this ordinance:
    - a. Radio and television receiving antennas and support structures, provided that they shall not be erected to a height greater than twenty (20) feet above the roof line.

- b. Utility poles, water towers and support structures.
- c. Monuments and ornamental towers.
- d. Chimneys, smokestacks and flues attached to a building or projections from buildings provided that they shall not be erected to a height greater than five (5) feet above the roof line or as required by State and/or Federal air quality laws and regulations.

(2) Every part of a required yard shall be open from its lowest ground point to the sky unobstructed; except for the ordinary projection of sills, belt courses, cornices, buttresses, ornamental features and eaves; provided, however, that none of the above projections shall project into a minimum yard more than twenty-four (24) inches.

(3) Open or enclosed fire escapes, outside stairways, balconies and other necessary unenclosed projections may extend into a minimum yard not more than three and one-half (3½) feet and the ordinary projections of chimneys and flues may be permitted by the City Manager where same are so placed as not to obstruct the light and ventilation.

(4) Unenclosed porches, landings, terraces, patios or platforms may project into any required front or rear yard not exceeding eight (8) feet.

(5) For properties which are located within the city's 1945 Corporate Limits, if fifty (50) percent or more of the structures within the same block face on the same side of the street are located inside the generally required minimum front, rear, or side yards, the minimum required front, rear side yard shall be the average front, rear or side yard for that block face on the same side of the street, respectively, so long as the requirements of Sec. 18-556 are observed.

(b) *Zero Lot Line Development.* For properties in the R-5, R-3, Multi-family Residential, O&I-1, O&I-2, Community Business, Regional Business and Commercial Services Districts, zero lot line development shall be permitted in accordance with the following standards.

(1) Zero lot line development is permitted when a windowless wall of a structure is placed either one:

- a. One side property line; or
- b. Encroaches into one side yard; and when the remaining footage required for the lot to meet the total side yard requirement is provided on the opposite side property line.

(2) Provided further:

- a. In residential districts, zero lot line development of single family, detached structures shall be allowed only on tracts consisting of two (2) acres or more. This provision is not applicable to the O&I and commercial districts.

- b. As a minimum, lots located on the outside perimeter of such a development shall provide the standard side yard of the adjacent zoning district.

- c. When this technique is applied to corner lots, the structure shall not encroach upon or be placed on the side yard property line adjacent to a street.

- d. If two (2) residential structures on two (2) lots must be located on the same side property line, then they shall have a common windowless wall conforming to the construction standards of Sec. 403.3 in Volume 1 of the North

Carolina State Building Code. All nonresidential structures must conform to Section 601 in Volume 1 of the North Carolina State Building Code.

e. Whenever a structure is located within four (4) feet of a side property line, a perpetual easement for wall and roof maintenance shall be provided on the adjacent lot. The minimum width of this maintenance access (side yard plus easement area) shall be four(4) feet. The easement shall be incorporated into each deed.

(c) *Properties on Thoroughfares.* For properties located in the multi-family, O&I-1, O&I-2, Community Business, Regional Business and Central Business District having frontage on major thoroughfares (as defined in the City of Wilmington Technical Standards and Specifications Manual), the minimum lot width requirement for all new lots shall be as follows:

<b>Lot Type</b>	<b>Minimum Lot Width</b>
Interior lot	85'
Through lot	85'
Corner lot	
Thoroughfare side(s)	170'
Other street side(s)	120'

The lot widths may be reduced if no access or shared access provisions are included in the recorded plats and/or deeds for new lots to be created and upon granting of a variance by the board of adjustment containing such access conditions.

(d) *Existing Performance Residential Developments.* In existing Performance Residential developments where multi-family dwellings were approved, the height regulations and restrictions for the MF-L zoning district shall apply when the impervious surface of the project is less than twenty-five percent (25%) of total land area.

#### **Sec. 18-175. Zoning affects use of land and structures.**

The regulations established herein for each district shall be minimum regulations unless specified otherwise and shall apply uniformly to each class or kind of land or structure, except as hereinafter provided.

(a) No land or structure shall be used or occupied, and no structure or parts shall be constructed, erected, altered, or moved unless in conformity with all of the regulations herein specified for the district within which it is located.

(b) The minimum yards, and other open spaces, including the intensity of use provisions contained in this Article, for every building hereafter erected or structurally altered, shall not be encroached upon or considered as yard, open space requirements, or intensity of use requirements for any other building unless specifically permitted.

(c) Rights-of-way, public or private, for streets and road shall not be considered a part of a lot or open space, or front, side, or rear yard for the purpose of meeting yard requirements.

(d) Every building hereafter erected or structurally altered shall be located on a lot meeting the requirements of the district in which it is located.

(e) A use or building not expressly permitted by right or granted by a special use permit shall not be allowed in a zoning district unless such use is permitted in accordance with Sec. 18-143 (b) and (c) herein.

**Sec. 18-176. Number of principal buildings on a lot.**

(a) In residential districts, except for condominium or townhouse developments, there shall be no more than one single family residence on a single lot and any customary accessory building.

In any nonresidential district, multiple buildings or structures are permitted on a single lot. However, all the site plans for such buildings or structures shall be subject to the same standards and procedures as for a site plan review as set forth in Article 3.

(b) Uses otherwise permitted within a zoning district, excluding uses which require special use permits, may be combined on a single lot or tract of land. However, all the site plans for such uses shall be subject to the same standards and procedures as for a site plan review as set forth in Article 3.

**Sec. 18-177. R-20, Residential District.**

(a) *Purpose.* The R-20, Residential District is established as a residential district in which the principal use of land is for low density residential and recreational purposes. The regulations of this district are intended to discourage any use which because of its character would substantially interfere with the development of residences and which would be detrimental to the quiet residential nature of the areas included within the district.

(b) *Uses Permitted by Right.* The following uses are permitted by right in the R-20 district, provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations:

- (1) Single family, detached
- (2) Family care home
- (3) Golf courses, private or public, with related services, including pro-shop
- (4) Parks and recreation areas, municipal
- (5) Recreation facility, private

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section and all other applicable requirements established in these regulations.

- (1) Child day care
- (2) Community boating facility
- (3) Group home supportive small



- (4) Group home supportive medium
- (5) Governmental uses outside public rights-of way, except offices
- (6) Libraries
- (7) Religious institutions
- (8) Telephone communication facility, unattended
- (9) Utility stations and plants outside public rights-of-way (public and private) including lift stations

(d) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Manufactured housing parks (including mobile home parks)
- (2) Child day care
- (3) Schools, colleges and universities
- (4) Schools, primary and secondary

(e) *Permitted Accessory Uses and Structures.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Apartment, accessory
- (2) Apartment, garage
- (3) Kennel, private
- (4) Home occupation
- (5) Swimming pool

(f) *Development Standards.* All uses and structures permitted in the R-20 district shall meet the applicable development standards established in this section and all other applicable requirements of these regulations:

- (1) Dimensional Requirements.
  - (a) Min. lot area (square feet): 20,000
  - (b) Max. density (u/a) 2.2
  - (c) Min. lot width (feet): 80
  - (d) Max. lot coverage (%): 50%
  - (e) Min. front setback (feet): 30
  - (f) Min. rear setback (feet): 25
  - (g) Min. interior side setback per side (feet): 15
  - (h) Min. corner lot side setback (feet): 20
  - (i) Height (feet): 35 (a)

Notes:

- (a) The maximum allowable height for piling supported primary structures which are located in "Coastal High Hazard Areas, V-Zones, and/or Ocean Hazard Areas" as defined by the Coastal Resources Commission shall be forty-four (44) feet.
- 

**Sec. 18-178. R-15, Residential District.**

(a) *Purpose.* This district is established for low density residential development and other compatible uses. Recognition of the existing residential development pattern located within the City and on its fringes creates a need for this district to preserve the character of these established neighborhoods and protect their associated property values. Land uses considered harmful to the health, safety and welfare of district residents shall be prohibited from infringing upon the livability of the residential areas within the district.

(b) *Uses Permitted by Right.* The following uses are permitted by right in the R-15 district, provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

- (1) Single family, detached
- (2) Family care home
- (3) Golf courses, private or public, with related services, including pro shop
- (4) Municipal parks and recreation areas
- (5) Recreation facilities, private, including community swimming pools

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Child day care
- (2) Government uses outside public rights-of-way, except offices
- (3) Group home supportive small
- (4) Group home supportive medium
- (5) Libraries
- (6) Religious institutions
- (7) Telephone communication facility, unattended
- (8) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations

(d) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Planned unit development residential
- (2) Manufactured housing parks (includes mobile home parks)

(3) Schools, primary and secondary

(e) *Permitted Accessory Uses and Structures.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Apartments, garage
- (2) Community boating facility
- (3) Home occupation
- (4) Kennel, private
- (5) Swimming pool

(f) *Development Standards.* All uses and structures permitted in the district shall meet the applicable development standards established in this section and all other applicable requirements of these regulations:

(1) Dimensional Requirements.

(a) Min. lot area (square feet):	15,000 (a)
(b) Max. density (u/a):	3.0
(c) Min. lot width (feet):	80
(d) Max. lot coverage (%):	50%
(e) Min. front setback (feet):	30
(f) Min. rear setback (feet):	25
(g) Min. interior side setback (feet):	10
(h) Min. corner lot side setback (feet):	15
(i) Max. height (feet):	35

Notes:

- (a) Minimum lot area per housing unit.
-

**Sec. 18-179. R-10, Residential District.**

(a) *Purpose.* This district is established for moderate and low density residential development and other compatible uses. It may act as a transition between higher density urban development located on the edges of the 1945 Corporate Limits and lower density suburban residential development located elsewhere within the City limits. Land uses considered harmful to the health, safety and welfare of district residents shall be prohibited from infringing upon the livability of residential areas within the district.

(b) *Uses Permitted by Right.* The following uses are permitted by right in the R-10 district, provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

- (1) Single family, detached
- (2) Family care home
- (3) Golf courses, private or public, with related services, including pro shop
- (4) Municipal parks and recreation areas
- (5) Recreation facilities, private, including community swimming pools

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Government uses outside public rights-of-way, except offices
- (2) Libraries
- (3) Child day care
- (4) Community boating facility
- (5) Group home supportive, medium
- (6) Group home supportive, small
- (7) Religious institutions
- (8) Unattended telephone communication facility
- (9) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc

(d) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Manufactured housing
- (2) Planned unit development residential
- (3) Schools, primary and secondary

(e) *Permitted Accessory Uses and Structure.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Apartment, accessory
- (2) Apartment, garage
- (3) Home occupation
- (4) Kennel, private
- (5) Swimming pool

(f) *Development Standards.* All uses and structures permitted in the R-10 district shall meet the applicable development standards established in this section and all other applicable requirements of these regulations:

(1) Dimensional Requirements.

- (a) Min. lot area (square feet): 10,000 (a)
- (b) Max. density (u/a): 4.4
- (c) Min. lot width (feet): 70
- (d) Max. lot coverage (%): 50%
- (e) Min. front setback (feet): 30
- (f) Min. rear setback (feet): 25
- (g) Min. interior side setback per side (feet): 10
- (h) Min. corner lot side setback per side (feet): 15
- (i) Max. height (feet): 35

Notes:

(a) Minimum lot area per housing unit.

---

**Sec. 18-180. R-7, Residential District.**

(a) *Purpose.* This district is established for moderate residential development and other compatible uses. It is intended to recognize areas of moderate residential density located outside the Traditional City. The protection and rehabilitation of viable neighborhoods within this district shall be encouraged to ensure the continued existence as a major housing resource.

(b) *Uses Permitted by Right.* The following uses are permitted by right in the R-7 district, provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

- (1) Single family, detached
- (2) Family care home
- (3) Golf courses, private or public, with related services, including pro shop
- (4) Recreation facility, private
- (5) Parks and recreation areas, municipal

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Child day care
- (2) Group home supportive, small
- (3) Group home supportive, medium
- (4) Government uses outside public rights-of-way, except offices
- (5) Libraries
- (6) Religious institutions
- (7) Telephone communication facility, unattended
- (8) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc
- (9) University administrative offices

(d) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Manufactured housing parks (includes mobile home parks)
- (2) Planned unit development
- (3) Schools, primary and secondary

(e) *Permitted Accessory Uses and Structures.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section,

the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Apartment, accessory
- (2) Apartment, garage
- (3) Bed and breakfast-only in Historic District Overlay-Residential
- (3) Community boating facility
- (4) Home occupation
- (5) Kennel, private
- (6) Community boating facility
- (7) Swimming pool

(f) *Development Standards.* All uses and structures permitted in the R-7 district shall meet the applicable development standards established in this section and all other applicable requirements of these regulations:

- (1) Dimensional Requirements.
  - (a) Min. lot area (square feet): 7,000 (a)
  - (b) Max. density (u/a) 6.2
  - (c) Min. lot width (feet): 50
  - (d) Max. lot coverage (%): 50%
  - (e) Min. front setback (feet): 30
  - (f) Min. rear setback (feet): 20
  - (g) Min. interior side setback (feet): 8.5
  - (h) Min. corner lot side setback (feet): 12.5
  - (i) Max. height (feet): 35

Notes:

(a) Minimum lot area per housing unit.

---

**Sec. 18-181. R-5, Residential District.**

(a) *Purpose.* This district is established for moderate to high density residential development and other compatible uses located in and near the Traditional City. Maintenance and improvement of areas of moderate to high density urban residential development is encouraged to protect the property values of the existing housing stock and to provide a suitable living environment for people who live in or near the Traditional City. Protection and rehabilitation of viable neighborhoods within this district shall be encouraged to ensure their continued existence as a major housing resource.

(b) *Uses Permitted by Right.* The following uses are permitted by right in the R-5 district, provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

- (1) Single family, detached
- (2) Duplex, Triplex, Quadraplex
- (3) Family care home
- (4) Golf courses, private or public, with related services, including pro shop
- (5) Parks and recreation areas, municipal
- (6) Recreation, private

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, , and all other applicable requirements established in these regulations.

- (1) Bed and breakfast: in the Hemmingway Residential Area Only
- (2) Government uses outside public rights-of-way, except offices
- (3) Group home supportive, medium
- (4) Group home supportive, small
- (5) Libraries
- (6) Religious institutions
- (7) Telephone communication facility, unattended
- (8) Utility stations and plants outside public rights-of-way (public and private) including lift stations, sub stations, pump stations, etc

(6) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Mixed use buildings
- (2) Planned unit development
- (3) Manufactured housing parks (includes mobile home parks)
- (4) Schools, primary and secondary



(a) *Permitted Accessory Uses and Structures.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Apartments, garage
- (2) Community boating facility
- (3) Home occupation
- (4) Kennel, private
- (5) Swimming pool

(b) *Development Standards.* All uses and structures permitted in the R-5 district shall meet the applicable development standards established in this section and all other applicable requirements of these regulations:

(1) Dimensional Requirements.

(a) Min. lot area (square feet):	(a)
Detached:	5,000
Duplex:	7,500
Triplex:	12,500
Quadraplex:	17,500
(b) Max. density (u/a):	8.7
(c) Min. lot width (feet):	50
(d) Max. lot coverage (%):	50%
(e) Min. front setback (feet):	20
(f) Min. rear setback (feet):	15
(g) Min. interior side setback (feet):	7*
(h) Min. interior side setback (feet):	10.5
(i) Max. height (feet):	35

Notes:

(a) Minimum lot area per housing unit.

\* For a lot of record existing at the adoption of this chapter, the minimum interior side yard requirement shall be equal to ten (10) percent of the average width of the lot, or the otherwise noted minimum interior side yard required, whichever is less.

---

**Sec. 18-182. R-3, Central City Residential District.**

(a) *Purpose.* This district is established for high density residential development and other compatible uses. It is intended to recognize areas of high urban residential development in the Traditional City and encourage the protection, rehabilitation and maintenance of the housing stock within the district. Recognition of the Traditional City residential district serves as a positive force in efforts to preserve the character of established neighborhoods within it and thereby safeguard the property values of the inner City's housing resources.

(b) *Uses Permitted by Right.* The following uses are permitted by right in the R-3 district, provided that they meet all requirements of this section and all other applicable requirements established in these regulations :

- (1) Single family, detached
- (2) Family care home
- (3) Duplex, Triplex, Quadraplex,
- (4) Golf courses, private or public, with related services, including pro shop
- (5) Recreation facility, private
- (6) Parks and recreation areas, municipal

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Child day care
- (2) Group home supportive, small
- (3) Group home supportive, medium
- (4) Government uses outside public rights-of-way, except offices
- (5) Libraries
- (6) Religious institutions
- (7) Telephone communication facility, unattended
- (8) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc

(7) (d) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Manufactured housing (including mobile home parks)
- (2) Mixed use buildings
- (3) Planned unit development
- (4) Schools, primary and secondary

(e) *Permitted Accessory Uses and Structures.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the

following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Apartments, garage
- (2) Community boating facility
- (3) Home occupation
- (4) Kennel, private
- (5) Swimming pool

(f) *Development Standards.* All uses and structures permitted in the R-3 district shall meet the applicable development standards established in this section and all other applicable requirements of these regulations:

(1) Dimensional Requirements.

(a) Min. lot area (square feet): (a)	
Detached:	3,000
Duplex:	4,500
Triplex:	7,500
Quadraplex:	10,500
(b) Max. density (u/a):	14.5
(c) Min. lot width (feet):	50
(d) Max. lot coverage (%):	50%
(e) Min. front setback (feet):	20
(f) Min. rear setback (feet):	15
(g) Min. interior side setback (feet):	5*
(h) Min. interior side setback (feet):	5
(i) Max. height (feet):	35

Notes:

(a) Minimum lot area per housing unit.

\* For a lot of record existing at the adoption of this chapter, the minimum interior side yard requirement shall be equal to ten (10) percent of the average width of the lot, or the otherwise noted minimum interior side yard required, whichever is less.

---

**Sec. 18-183. MHP Manufactured Housing Park District.**

(a) *Purpose.* This district is established to accommodate planned manufactured housing park development. It affords City residents an alternate housing type and thereby promotes the health, safety and general welfare of the community.

(b) *Density.*

(1) Four thousand (4,000) square foot minimum lot size.

(2) Ten and nine-tenths (10.9) mobile homes per acre.

(c) *Regulations.* Manufactured housing parks shall conform to the provisions of the Mobile Home and Travel Trailer Park Ordinance of New Hanover County to the extent said provisions are not in conflict with any provisions or requirements of the City Code.

(d) *Uses Permitted by Right.* The following uses are permitted by right in the MHP district, provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations:

(1) Family care home

(2) Golf courses, private or public, with related services, including pro-shop

(3) Manufactured housing

(4) Parks and recreation facility, municipal,

(5) Recreational facility, private

(d) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section and all other applicable requirements established in these regulations.

(1) Government uses outside public rights-of-way

(2) Group home supportive, large

(3) Group home supportive, medium

(4) Group home supportive, small

(5) Manufactured housing parks

(6) Telecommunication facility, unattended

(7) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc.

(f) *Permitted by Special Use Permit:* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

(1) Child day care

(2) Libraries

(3) Religious institutions

(g) *Permitted Accessory Uses and Structures.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the

following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6, and all other applicable requirements established in these regulations.

- (1) Home occupation
- (2) Swimming pool, private community

**Sec. 18-184. Multi-family Residential Districts (MF-L, MF-M, MF-MH, MF-H)**

(a) *Purpose*

(1) *MF-L, Multiple Family Residential District-Low Density (10 du/ac max. density)*: This district is established for moderate density single family and low density multiple family development of varying types and designs. It functions as an alternative housing type near or in direct relationship to single family detached housing.

(2) *MF-M, Multiple Family Residential District-Medium Density (17 du/ac max. density)*: This district is established for moderate density single family and multiple family development of varying types and designs. It functions as a transitional land use between intensive nonresidential uses or higher density residential areas and lower density residential areas. The district is designed to respond to the varying housing needs of the community while affording a reasonable range of choice, type and location of housing units within the City.

(3) *MF-MH, Multiple Family Residential District-Medium-High (25 du/ac max. density)*: This district is established for medium- high density residential development of varying types and designs, with emphasis on mid rise structures. It functions as a transitional land use between intensive nonresidential uses and lower density residential areas. The district is designed to be located between low-density suburban areas and major population centers such as the downtown, suburban shopping centers and medical services areas while providing a reasonable range of choice, type and location of housing units within the City.

(4) *MF-H, Multiple Family Residential District-High Density (36 du/ac max. density)*. This district is established for high density residential development of varying types and designs, with emphasis on mid and high rise structures. It functions as a transitional land use between intensive nonresidential uses and lower density residential areas. The district is designed to be located in close proximity to major population centers such as the downtown, suburban shopping centers and medical services areas.

(b) *Uses Permitted by Right*. The following uses are permitted by right in the MF-L, MF-M, MF-MH, MF-H districts, provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

- (1) Dwellings, attached (including townhouses)
- (2) Dwellings, duplex, triplex and quadraplex
- (3) Dwellings, multi-family
- (4) Dwellings, single-family detached
- (5) Family care home
- (6) Golf course, public or private, with related services, including pro-shop
- (7) Parks and recreation areas, municipal
- (8) Recreation facilities, private, including community swimming pools

(c) *Uses Permitted under Prescribed Conditions:* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Adult day care
- (2) Child care center
- (3) Dormitories, private
- (4) Fraternity and sorority houses
- (5) Governmental uses outside public rights-of-way, except office uses, but including buildings occupied or operated by federal, state, county and/or municipal government on land owned or leased by a government body,
- (6) Group home supportive, small
- (7) Group home supportive, medium
- (8) Group home supportive, large
- (9) Libraries
- (10) Religious institutions
- (11) Unattended telephone communication facilities
- (12) Utility stations and plants outside public rights-of-way, such as sewage lift stations, pump stations, etc. that do not create excessive noise, odor, smoke, dust, and that do not possess other objectionable characteristics, which might be detrimental to surrounding neighbors or to other uses permitted in the district, may be allowed. The use shall be screened with security fencing or other structures, and a landscape buffer as required in Article 8, Division VII.

(d) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Planned Unit Development
- (2) Group day facility
- (3) Group home residential
- (4) Schools, primary and secondary

(e) *Permitted Accessory Uses and Structures.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Apartments, garage
- (2) Home occupation
- (3) Kennels, private
- (4) Swimming pool

(f) *Development Standards:* All uses and structures permitted in the MF-L, MF-M, MF-MH, MF-H districts shall meet the applicable development standards established in this section and all other applicable requirements of these regulations:

(1) Dimensional Requirements.

	<b>MF-L</b>	<b>MF-M</b>	<b>MF-MH</b>	<b>MF-H</b>
<b>Minimum lot area (square feet)</b>				
Multi-family	20,000	20,000	20,000	15,000
Detached	5,000	5,000	4,000	3,000
<b>Max. density (u/a)</b>				
Multiple Family	10	17	25	36
SFR, detached	6	9	12	15
<b>Min. lot width (feet)</b>				
Multi-family	100	100	90	80
Att/Det/Du/Tr/Q	50 <sup>b</sup>	50 <sup>b</sup>	40 <sup>b</sup>	40 <sup>b</sup>
<b>Maximum lot coverage (%)</b>				
Multi-family	30	30	35	35
Att/Det/Du/Tr/Q	50 <sup>b</sup>	50 <sup>b</sup>	50 <sup>b</sup>	50 <sup>b</sup>
<b>Minimum front setback (feet) (b)</b>				
Multi-family	35	35	30	30
Att/Det/Du/Tr/Q	15	15	15	15
<b>Minimum rear setback (feet) (b)(c)</b>				
Multi-family	25	25	25	25
Att/Det/Du/Tr/Q	15	15	15	15 <sup>b</sup>
<b>Minimum interior side setback (feet) (b)(c)</b>				
Multi-family	20	20	20	20
Att/Det/Du/Tr/Q	5	5	5	5 <sup>b</sup>
<b>Minimum corner lot side setback (feet) (b)</b>				
Multi-family				
Att/Det/Du/Tr/Q	30	30	30	30
	10	10	10	10 <sup>b</sup>
<b>Height (feet)</b>	35+ <sup>a</sup>	35+ <sup>a</sup>	35+ <sup>a</sup>	35+ <sup>a</sup>

Notes

- (a) See subsection (f)(2) below for additional height criteria.
- (b) All setback requirements for multiple family development shall apply to the initial project boundary only and not to the individual structures of the project.
- (c) For every foot of increased height of structures over twenty (20) feet, the developer shall provide additional interior side and rear yard setbacks at a 1:1 ratio where abutting a residential district.



<i>Abbreviations:</i>	MFR:	Multiple Family Residential
	Att:	Attached single family dwelling
	Det:	Detached single family dwelling
	Du:	Duplex
	Tr:	Triplex
	Q:	Quadraplex

---

(2) Building height. Building height may be increased when additional side and rear yards are provided in accordance with the following standards. The maximum height of any building, shall be ninety-six (96) feet. The formulas for increases are as follows:

<b>Height of Building Above 35 Feet</b>	<b>Additional Yard Requirements for Districts Noted by 35+ (a)</b>
First 10 feet above 35 feet	4 feet for each 10 foot increment, or portion thereof
10.1 to 30 feet above 35 feet	6 feet for each 10 foot increment
30.1 or more above 35 feet	8 feet for each 10 foot increment

(g) *Special Regulations:* Design standards for multi-family complexes with multiple buildings or a single building with more than eight (8) units. Multi-family and attached developments, must be designed in accordance with the following standards:

- (1) The site design must give adequate consideration to:
  - a. The size and shape of the tract.
  - b. The topography.
  - c. Reasonable preservation of natural features.
  - d. The size and relationship of the buildings.
  - e. The character of or the relationship to adjoining properties.
  - f. The building arrangement. It should discourage the creation of long alleyways between the rears of buildings and should discourage the orientation of the front entrance of a residential building toward the rear entrance of another residential building.
  - g. The location and arrangement of recreation and parking areas, the nature and extent of screening.
  - h. The design and utilization of streets and open spaces.
  - i. Every residential building on the site will be separated on every side from any other building by at least sixteen (16) feet.
  - j. All portions of every residential building will be located within 500 feet of a public street or private street, which provides direct access to a residential building. Determination of whether interior

roads will be public streets or private streets, or a combination of public streets and private streets will be made by the subdivision review board in consultation with other appropriate City/county departments. In reaching that decision, consideration should be given to the following:

- a. Adopted thoroughfare plan.
- b. Existing and proposed neighborhood streets and circulation needs.
- c. The relationship of the site to adjoining lands.
- d. The size and shape of the tract to be developed.
- e. The number of dwelling units to ultimately be constructed on the tract and on adjoining lands.
- f. Anticipated traffic volumes.
- g. Emergency vehicle access.

(2) The determination of whether interior roads will be public or private will consider only the minimum needs of the public for public streets and will recognize the privacy, security and safety advantages of private streets;

(3) Private streets are interior circulation roads designed and constructed to carry vehicular traffic from public streets within or adjoining the site to parking and service areas. The design and arrangement of private streets will be subject to review and approval by the subdivision review board in consultation with the appropriate City departments.

(4) Construction standards for private streets regarding paving, cross sections, curb and gutter and storm drainage shall be as specified in the City of Wilmington Technical Standards and Specifications Manual. No specific minimum standards related to radii, vertical curves and longitudinal grades will be stated except that such designs will insure safe, convenient access and circulation for emergency and service vehicles. It will be an objective in the design and review of private streets and parking areas to provide for a residential environment where access and circulation ways are configured for slow speeds and to do minimum disturbance to topography and tree cover.

(5) Angled parking areas directly adjoining private streets will be permitted on one side of the street. Such parking areas may be alternated from one side of the street to the other. The combined length of such parking areas may not exceed 50 percent of the length of the adjoining roadway. All other angled parking areas must be clearly separated from the private street by at least a barrier island.

(6) Permanent street names approved by the City Manager or designee will be assigned to each private street. Street name signs approved by the appropriate City department must be posted. The assignment of building identification numbers will utilize the approved private street names.

(7) Private streets and surface parking areas on the site will be no closer than fifteen (15) feet to any side of a residential building used for entry into the building and will be no closer than 5 feet to any other face of a building. Architectural features such as stairs, chimneys, bay windows, and roof overhangs may extend into this

fifteen (15) foot area, but in no case may they be closer than five (5) feet to the private street and surface parking area;

(8) Building wall areas over two hundred (200) square feet and facing the public right-of way shall require a minimum of one large maturing tree per thirty (30) feet of linear wall or one small maturing tree per twenty (20) feet of linear wall no closer than fifteen (15) feet to the wall; and

(9) All locations for recycling containers, solid waste handling areas, dumpsters and/or compactors and their serviced entrances as required shall be shown on site plans for their review and approval.

(10) No building permit for construction of a multi-family or attached development will be issued until a preliminary plan has been approved in accordance with the subdivision code. After the subdivision review board has approved the preliminary plan, the multi-family or attached development must proceed through the normal approval process to obtain a building permit.

(11) All new multi-family developments shall provide open space that is equivalent to a minimum of thirty-five (35%) percent of the size of the tract. In calculating the required amount of open space for the proposed multi-family development, the area of the property associated with natural ponds, stormwater ponds, lakes, ponds, rivers, streams and marshes shall first be subtracted from the gross area of land to be committed to the development. No more than fifty percent (50%) of the required open space can be designated as either active or passive recreation areas. The required open space shall meet the active and passive recreation space standards as defined in Article 7 of this code.

**Sec. 18-185. MX, Mixed Use District.**

(a) *Purpose.* The Mixed Use District (MX) is established, consistent with the policies of the comprehensive plan, to provide innovative opportunities for integrating diverse but compatible uses into a single development that is unified by distinguishable design features. The Mixed Use District is intended to provide an alternative to the predominate development pattern in Wilmington characterized by unconnected, uncoordinated commercial development along thoroughfares and limited access residential developments isolated from places to work and shop, MX may also be used to replicate the historic urban development pattern in redevelopment areas. In addition to a mixture of compatible uses, developments in this district shall provide amenities and walkways to increase pedestrian activity, decrease reliance on individual vehicles, foster transit usage, enhance the environmental quality and attractiveness of Wilmington and New Hanover County, improve the overall quality of life, and provide for the welfare of the citizens. In the event of conflict between regulations for mixed use developments and those in other sections of the City Code, the mixed use regulations shall supercede unless specifically stated otherwise.

(b) Mixture of uses.

(1) Uses may be mixed within a building or within the development.

(2) Mixed use developments on sites greater than fifteen (15) acres shall contain a minimum twenty (20) percent residential use.

(3) No more than seventy-five (75) percent of the required residential component may be located in a single family detached residential development.

(4) The mixed use development must always contain at least three (3) of the following use categories:

- a. Residential.
- b. Office.
- c. Commercial.
- d. Institutional, quasi-public, public.
- e. Entertainment and lodging.

(5) For mixed use developments containing three (3) use categories, each use shall occupy a minimum of twenty percent (20%) of the floor area or gross acreage of the project. The developer may choose the use mix measurement but each project shall only use one of the use mix measurements (floor area or gross acreage). For projects with four (4) or more use categories, the twenty percent (20%) minimum is waived for all categories except residential, however, no use may occupy more than sixty percent (60%) and no two uses combined shall occupy more than eighty percent (80%) of the floor area or gross acreage. For phased projects, during construction of any phase prior to project completion or six years from the initial foundation inspection, whichever is first, no single use shall exceed sixty percent (60%) and no two uses shall exceed ninety percent (90%). Residential uses may occupy as much as seventy –five percent (75%) floor area or gross acreage, if that which is over sixty percent (60%) is located in a mixed-use building and located over first floor commercial use.

(6) For MX projects developed in phases (as defined in this ordinance), each phase shall be able to function as a stand alone development and the project shall contain

the required common space/open space at all times during the phases of construction. All MX project shall meet the minimum mix of uses requirements according to the following schedule:

<u>Project Size (acres zoned mixed use)</u>	<u>Time from first foundation inspection to provide initial 60-30-10 mix</u>
0-100	18 months
100+ to 200	36 months
200 +	48 months

If the mixture of uses is not provided in this time, no certificates of occupancy will be issued for any part of the project other than single family detached residential developments and townhouse residential developments, not exceeding four units per building until the mixture is provided. All structures with a certificate of occupancy or at least foundations and footings may be considered part of the mixture. Single family detached residential developments and townhouse residential developments, not exceeding four units per building in MX projects of one hundred (100) acres or more may have up to four years from the first foundation inspection approval before certificates of occupancy will be withheld for failure to provide the required mix of uses. The City Council may grant a one year extension for a total of five (5) years if the property owner can provide evidence that a mix will be provided by the end of the additional year. The evidence may include but [not] be limited to tenant contracts, leases or other legal construction agreements with specific deadlines.

(c) *Permitted uses.*

(1) *Principal uses:* All uses in this list shall be considered permitted uses in a MX District. All adult establishments are prohibited. The uses are arranged in categories to provide an appropriate mix of uses. Uses are placed in categories based on similar impacts and to ensure diversity of uses. The categories are not intended to follow standard classification of uses. The list of uses for MX Districts is independent from the table of uses for other zoning districts. At least three (3) categories out of the five (5) listed below, must be represented in the mixed use project.

a. *Residential category.*

1. Dwellings single family
2. Duplex, triplex, quadraplex
3. Multi-family and townhouses
4. Family care homes

b. *Office category.*

1. Banking services
2. Medical offices
3. Offices (without outdoor operations or storage)
4. Offices with limited wholesale distribution (no assembly and storage permitted)

5. Radio and television broadcasting studios
6. Veterinary services with enclosed pens
- c. *Commercial category*
  1. Convenience food stores (with or without gasoline sales)
  2. Lawn and garden store.
  3. Spas and health clubs
  4. Night clubs (night clubs shall not locate adjacent to an existing place of worship or within one thousand five hundred (1,500) feet of existing residential uses or districts)
  5. the following personal service establishments:
    - i. Beauty salons
    - ii. Barber shops
    - iii. Licensed professional therapists
    - iv. Clothing alterations
    - v. Shoe repair shops
    - vi. Laundry, dry cleaning, and Laundromat services
  6. Photography studios
  7. Marinas
  8. Recreation facilities: private indoor or outdoor
  9. Repair shops (without outdoor operations or storage)
  10. Restaurants with or without drive-up windows drive-up windows shall not be located within one thousand five hundred (1,500) feet of existing residential uses or districts. Provided, however, if there is a freeway or thoroughfare roadway, as shown on the Wilmington Urban Area Thoroughfare Plan, which separates the drive up window from residential uses or districts, this distance requirement shall not apply
  11. Retail sales establishments
  12. Automobile service shops (without outside storage or operations)
  13. Corporate park uses limited to educational, scientific and industrial research facilities, research laboratories and medical or dental laboratories
  14. Farmer's market
- d. *Institutional, quasi-public use, or public use category*
  1. Clubs, lodges and recreation facilities for use by non-profit organizations
  2. Colleges and universities
  3. Convalescent centers
  4. Day care facilities
  5. Government facilities, not to include correctional facilities
  6. Hospitals
  7. Religious institutions
  8. Retirement centers and life care communities
  9. Public and private schools
- e. *Entertainment and lodging category*

1. Amphitheater
2. Art galleries and studios
3. Cultural arts centers including theaters
4. Hotels and motels
5. Meeting and events centers
6. Movie theaters except drive in
7. Museums

(2) *Supporting uses:* The uses listed below are considered supporting uses to the required categories. While the following uses are allowed by right, they shall not count towards the minimum required mixed use categories. Even though the project may contain one or more of the following uses, it must still include at least three (3) of the five (5) categories (residential, office, commercial, institutional/quasi-public/public, or hotel) listed above to qualify as a mixed use project.

- a. Accessory buildings.
- b. Garage apartments
- c. Accessory uses
- d. Caretakers dwellings
- e. Golf driving range
- f. Helistops
- g. Commercial parking facilities
- h. Public parks, playgrounds and facilities
- i. Public and private transportation facilities
- j. Public utility facilities, with or without outside storage
- k. Home occupations

(d) *General regulations.*

(1) *Minimum site size:* The minimum gross tract size for initial zoning shall be five (5) contiguous acres. Contiguous additions may be made in increments of any size. Additions, when combined with any existing MX area, shall meet all ordinance requirements as a unified development. When the total MX site area exceeds fifteen (15) acres, the requirements for sites greater than fifteen (15) acres shall apply to the total MX site.

(2) *Building height:* No buildings shall exceed six (6) floors in height, including mezzanine levels. Floors for parking facilities shall not be included in the maximum height calculation. Additional height, up to ten (10) floors may be approved by the technical review committee if the project is granted density bonuses for low impact development. Buildings with height greater than six (6) floors should be located in the center of the site but may be permitted on site perimeters if the adjacent property has a building six (6) floors or greater.

(3) *Thoroughfare requirements:* All mixed use developments on sites larger than fifteen (15) acres shall have at least one (1) direct access to and from an existing major or minor thoroughfare as indicated in the thoroughfare plan. Interconnection to other road classifications may be required.

The City Council may approve mixed use developments without direct access to a thoroughfare if a traffic impact analysis, performed and approved according to the City Code, demonstrates:

- a. The impact of the project will not cause surrounding roadways to operate above capacity. The City Council shall consider the impact of undeveloped land in the area when approving mixed use developments with out access to thoroughfares;  
OR
  - b. The impact of the project will be less than or equal to the impact of a typical project developed under existing zoning. The typical project shall be determined by reviewing at least three (3) recent comparable projects developed within five (5) years of the project in the same zoning designation and shall not be a best case or worst case scenario. The list of comparable projects must be approved by City staff.
- (4) *Fringe use areas*: To insure compatibility with adjoining land uses, a fringe use area, two hundred (200) feet in width, shall be established along the exterior property lines of the MX District where the exterior property lines of the MX District are adjacent to single family residential uses or platted single family residential lots.
- a. If the exterior property line of the MX District is not adjacent to residential uses or platted residential lots, then no fringe use area will be required.
  - b. If a fringe use area is required, only residential uses or open space shall be permitted within that fringe area.
  - c. The maximum building height within the fringe use area shall be three (3) stories.
  - d. The required building setback in the fringe use area shall be calculated as follows:  $(\text{building height}) \times (2.75)$ . In no case shall the minimum setback be less than twenty-five (25) feet.
  - e. There shall be no accessory structures or parking located within the part of the setback adjacent to residential districts.
  - f. In all instances, lighting shall be directed away from the adjacent residential use.
- (5) *Building setbacks and separations*: Buildings located on the periphery of the MX District shall be set back a minimum of twenty (20) feet from the MX District boundary. All buildings shall be set back at least fifty (50) feet from US and NC numbered highways and major thoroughfares. No building shall encroach upon the right-of-way of a proposed thoroughfare as designated by the Wilmington Area Thoroughfare Plan. There shall be no minimum interior setbacks and separation requirements. All internal non-residential buildings are encouraged to be located within ten (10) feet of street rights-of-way to enhance the pedestrian orientation of the development. Buildings set back large distances from roads and pedestrian trails are strongly discouraged. However, all structures shall meet state building Code requirements and all other requirements to protect the health, safety and welfare of occupants.
- (6) *Unified control/ownership of the site*: Mixed used developments shall be under single ownership or unified control or under the management and supervision of a central authority or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this ordinance. The entire MX site,



including all phases and subdivided lots, shall be fully integrated through common design themes and pedestrian and vehicular connections. A unified mixed use development is required regardless of whether the development is phased or subdivided.

(7) *Community property owner's association*: A community property owner's association shall be established in accordance with the subdivision ordinance.

(8) *Underground utilities*: All electric, cable television and telephone facilities, fire alarm conduits, street lighting wiring, and other wiring conduits and similar facilities shall be placed underground by the developer or the appropriate utility company.

(9) *Minimum landscaping*: All areas designated mixed use shall be subject to the landscaping regulations for the Office and Institutional (O&I) zoning district. Any individual, large retail buildings with a footprint of forty thousand (40,000) square feet or more shall be subject to the landscaping requirements for large scale retail. Street trees are required along all streets and shall be a minimum three (3) inch caliper and shall be located at a minimum fifty (50) feet on center. The technical review committee (TRC) may permit alternatives to strict conformance with the required landscaping under the following conditions. However, in all cases, mixed use developments shall provide at least the minimum square feet of landscaped area and number of trees required by the Code. Only the location of required landscaping may vary.

- a. Preservation of natural stands of trees and native vegetation.  
Preservation of natural stands of trees may be substituted for interior landscaping requirements when the square footage of the preserved area is at least equal to the minimum square footage required. Natural stands should be dispersed throughout the project if possible and shall not be permitted to replace all landscaping in a parking area. However, in no case shall perimeter landscaping be less than eight (8) feet in width.
- b. Additional landscaping in key areas. Provision of at least ten (10) percent greater amount (square feet) than minimum landscaping area on the project perimeter, at project entrances and in common spaces may be substituted for strict conformance to internal landscaping requirements.
- c. Provision of low impact developments. Landscaping necessary to accommodate the provision of low impact developments as described in the density bonus section may be substituted for strict conformance with minimum requirements.

(10) *Signs*: The following sign requirements shall apply to mixed use developments:

- a. All internal signs in areas designated mixed use shall be required to meet the requirements for signs in the Central Business District (CBD) zoning district.
- b. Project entry signs shall be integrated into site entry features and met the following standards.

- i. The sign area shall not exceed seventy-five (75) square feet and its vertical dimension shall not exceed four feet (4').
- ii. The maximum height of the overall entry structure shall not exceed six feet (6').
- iii. The sign and structure shall be so located as to not obstruct the view of persons entering or leaving the development consistent with the sight triangle requirements in the City's *Technical Standards and Specifications Manual*.
- iv. Main and secondary entrances shall be designated on the site plan: main entryway, two (2) signs are allowed, one (1) on each side of the road or drive way, not to exceed a combined total area of one-hundred fifty feet (150) square feet, a maximum vertical dimension of four feet (4'), subject to meeting all of the aforesaid criteria; secondary entranceways shall then be restricted to one (1) ground sign, not to exceed eighteen (18) square feet in area and a vertical dimension of four feet (4'); provided, however, that if such signs are incorporated with an entry wall or similar type feature, two (2) secondary entranceway signs are allowed, one (1) on each side of the access road, not to exceed a combined total area of twenty-seven (27) square feet and a vertical dimension of four feet (4').
- v. Signage text shall be governed as follows: Main entryway, text is limited to the development name and one tenant. Sign area devoted to a tenant name is limited to twenty-five (25%) percent of any sign area. Secondary entryway, text is limited to the development name only.
- vi. Internal illumination is prohibited.
- c. Pole signs and outdoor advertising signs shall not be permitted in mixed use developments.
- d. Signs in areas designated as exclusively single family residential shall comply with the regulations for signs permitted in residential districts.
- e. Wayfinding signs are permitted within mixed use developments. A wayfinding sign is a sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians on the site. Wayfinding signs include signs that provide information and direction to areas and businesses including but not limited to town centers, office parks, recreation areas, and specific business names subject to the following standards:
  1. The materials used for directional signs or wayfinding signs shall coordinate with the overall character and design of the mixed use development.
  2. The maximum height of each sign pole or post is twelve (12) feet.
  3. The minimum clearance beneath wayfinding signs shall be seven (7) feet if the sign is located within a pedestrian area or bike path

area. There is no minimum clearance if the sign is not located in a pedestrian area or bike path area.

4. The maximum square footage per individual sign on the sign pole or post is four (4) square feet. The maximum total square footage on a pole or post is twenty (20) square feet.
5. The maximum number of individual signs per sign pole or post is five (5).
6. No more than two (2) sign poles or posts per block face are permitted.
7. External illumination of wayfinding signs is permitted. Internal illumination of wayfinding signs shall be prohibited.
8. Wayfinding signs shall not be visible from roadways outside the development.
9. A sign plan must be approved by staff prior to installation. The sign plan must include all proposed sign dimensions, square footage, location, materials, and colors.

(11) *Street and parking design:*

- a. A general grid street system with multiple external road connections is encouraged. Multiple internal road connections are required.
- b. Road connections to adjacent roads and developments:
  1. Connections to existing stubbed roads are required unless the connection would result in substantial degradation of an existing wetland or water body to the point that required permits cannot be obtained from the appropriate regulating bodies.
  2. Multiple connections are encouraged to limit the impact on any one (1) street.
  3. Each MX project shall have sufficient external connections so that no one site entrance will carry more than fifty (50) percent of the average daily trips to or from the site. This requirement may be waived if a site has insufficient frontage to be granted multiple driveway permits from the North Carolina Department of Transportation or the City and adjacent site conditions prevent connections on other perimeters.
  4. A traffic impact analysis and street design plan shall be required to make the determination of adequate connectivity. The traffic impact analysis is required at the time of site plan submittal. The interconnectivity requirements of this section shall be met for each phase of a mixed use development.
  5. Connections to existing local roads shall not be direct through street access from collectors or arterials. Connections to local roads shall include landscaped islands, roundabouts or other features designed to calm traffic as it enters the existing neighborhood.
  6. Public amenities are encouraged to be located next to adjacent neighborhood connection points.

- c. Pedestrian scale, tree lined streets with on street parking are encouraged.
- d. Parking lots shall be located behind or to the side of buildings. Clearly defined rear building entrances are encouraged where parking is located behind buildings. The majority of parking is encouraged to be on street parking to reduce large parking lots.
- e. Parking garages are discouraged on primary activity or collector streets. If a parking garage is located on a primary activity or collector street, the majority of the facade shall have a non-parking use.
- f. Alleys are encouraged.
- g. The maximum block perimeter in areas designated mixed use, shall be no more than one thousand eight hundred (1,800) feet. Alternatives to this standard may be considered through the mixed use development process, provided that pedestrian access is maintained at least every four hundred fifty (450) feet. Access may be provided through buildings or service alleys.
- h. Mixed use developments may be required to provide street or driveway stubs and reciprocal access easements to promote efficient circulation between uses and properties, and promote connectivity and dispersal of traffic.
- i. The technical review committee may permit alternatives to the City's technical standards for street and parking design under any one (1) of the following conditions:
  - 1. Safe and adequate access to and within the site is provided. All interior drives shall be designed so as to provide adequate access for emergency service vehicles, mass transit and solid waste pick up.
  - 2. Low impact development as described in the density bonus section, is provided.
  - 3. Greater than fifty (50) percent of the total parking is on-street parking.
  - 4. Angled parking may be permitted on streets with speed limits of twenty (20) miles per hour or less.
  - 5. The eight hundred (800) foot rule for cul-de-sac and private driveways may be waived in areas with a grid street pattern where multiple access points exist. Safe and adequate access for emergency service vehicles and solid waste pick up shall be provided.

(12) *Parking requirements:* The following parking requirements shall apply to mixed use developments:

- a. Maximum parking requirements shall be consistent with the parking requirements of the City Code. Mixed use developments shall be eligible for additional parking spaces above the maximum when utilizing the pervious parking requirements of the City Code. Any parking located above ground level in a parking facility shall not be

counted towards the maximum. There shall be no minimum parking requirement.

- b. A maximum twenty-five (25) percent of parking may be for small vehicles/compact cars subject to the standards of the City Code.

(13) *General site design*: The following characteristics are essential for a quality mixed use development. Each of these components shall be included in mixed use developments. Each component in this section includes both required and optional site design elements and is intended to allow for flexibility. The site plan shall include a narrative describing how the project will incorporate these characteristics. All mixed use developments shall contain a minimum fifty (50) percent of the encouraged optional elements of this section.

- a. Pedestrian accessibility/concentration of development (critical mass) in a compact, walk able area.
  - 1. Uses are encouraged to be sufficiently concentrated to promote convenient pedestrian access. Larger projects are encouraged to concentrate uses in multiple nodes. Concentration within a fifteen hundred (1,500) foot perimeter is preferred.
  - 2. Pedestrian circulation shall be clearly defined and shall connect all uses.
  - 3. Bicycle and pedestrian access to adjacent developments is strongly encouraged in areas where vehicular access is not provided.
  - 4. Sidewalks are required on each side of rights-of-way or private streets throughout the development and are encouraged to be located in front of businesses and houses and not concentrated in parking areas.
  - 5. With the exception of exclusively single family areas, separated, single use pods are prohibited. Strip commercial development characterized by single story uncoordinated, unconnected buildings with large street frontage parking lots is specifically prohibited. Strip malls with uncoordinated, unconnected out parcels are prohibited. All structures shall be fully integrated into the mixed use project through common design themes (including but not limited to lighting, benches, landscaping, other decorative features but not necessarily building design), integration with a variety of uses, non-linear arrangement, common spaces, pedestrian walkways, vehicular access connections and other features.
- b. *Clearly defined common spaces for gathering/interaction and fostering a sense of community*. Plazas, courtyards and other areas are necessary to provide for public gathering and interaction. Amenities, such as benches, planters, lighting, fountains, art and landscaping that further the design theme of the project and encourage interaction are required. Specific requirements are described in the common space and open space section of this article.
- c. *Integrated design of the project*. Common architectural theme: Mixed use projects require special attention to building design because of the

intermixing of land uses in close proximity. Functional integration of residential and commercial uses shall be considered during design of mixed use projects. The following standards are intended to guide development of mixed use projects:

1. *Physical integration of uses*: All mixed use developments shall be designed and developed to provide an appropriate interrelationship between the various uses and structures within the development.
2. Residential and commercial uses may be located within the same or adjoining structures providing appropriate health and safety regulations are followed.
3. *Design*: Structures should provide architectural relief and interest, with emphasis at building entrances and along sidewalks, to promote and enhance a comfortable pedestrian scale and orientation. Structures shall have consistent scale and massing to create a unified project. Compatibility with the immediate context is required. However, gradual transitions in scale and massing are permitted.
  - i. Blank walls shall be avoided by including ground floor windows, recesses, extensions and breaks in roof elevation.
  - ii. Design should provide differentiation between ground-level spaces and upper stories. For example, bays or balconies for upper levels, and awnings, canopies or other similar treatments for lower levels can provide differentiation. Variation in building materials, trim, paint, ornamentation, windows, or other features such as public art, may also be used.
  - iii. Design shall ensure privacy in residential developments through effective window placement, sound-proofing, landscape screening or orientation of outdoor living areas (e.g. balconies, porches, patios and etc.). Opposite facing windows at close distances should be offset vertically or horizontally, or employ appropriate materials (e.g. glazed, tinted and etc.) to protect privacy.
- d. *Housing diversity (size, type and cost)*.
  1. Mixed use projects should include attached and detached residential components with a range of prices and sizes.
  2. Single family lot sizes shall be varied to provide a mixture of lot sizes.
- e. *Preservation of natural features and open space*. Permitted flexibility in lot sizes, setbacks, street widths and landscaping shall be utilized to preserve natural features and provide open space consistent with the policies of the comprehensive plan. Specific requirements are described in the common space and open space section of the mixed use ordinance.
- f. *Connection to the surrounding community*. Mixed use developments shall not be gated and shall be interconnected to surrounding

developments. Mixed use projects shall be designed as an integral part of the surrounding community and not as an isolated development.

- g. *Phasing.* Mixed use projects may be phased. Site plan submittals meeting all requirements of this ordinance and the Wilmington City Code shall be considered a phase. The first phase shall meet all requirements of this ordinance. Additional phases shall become part of the existing development. The entire project, including the first phase and all subsequent phases, shall meet all ordinance requirements as a unified development at all times. The technical review committee may require all external street interconnections, stormwater systems, utilities and other public improvements to be constructed in the first phase to ensure the phase can function as a stand alone mixed use development.

(e) *Density.*

(1) *Mixed use density.*

- a. The base density permitted for areas designated mixed use within the developed and urban transition land classification categories shall be 0.20 floor area ratio.
- b. The base density permitted for areas designated mixed use within the resource protection, limited transition, community and rural land classification categories shall be 0.15 floor area ratio. However, in no case shall the amount of impervious surface exceed fifty (50) percent of the entire site area.
- c. The base density permitted for areas designated mixed use in the conservation land classification category shall be 0.10 floor area ratio. However, in no case shall the amount of impervious surface exceed twenty-five (25) percent of the entire site area.
- d. Maximum density for areas designated mixed use shall be determined by adding the base density to any density bonuses. Density bonuses shall be determined by application of performance measures described in this ordinance. In order to be eligible for bonuses in the resource protection category, the applicant shall utilize at least one of the Categories A, B or C environmental bonus items. No density bonuses shall be permitted for portions of the project in the conservation land classification category.
- e. Floor area ratio (FAR) equals the gross floor area of all buildings in areas designated mixed use divided by the mixed use area (FAR = gross floor area/mixed use area).

(2) *Residential density.*

- a. The base density permitted for areas designated residential in the developed and urban transition land classification categories shall be eight (8) dwelling units per acre.
- b. The base density permitted for areas designated residential in the resource protection, limited transition, community, rural and conservation land classification categories shall be two and one-half

(2.5) dwelling units per acre. However, in no case shall the amount of impervious surface exceed twenty-five (25) percent of the site area in the conservation category and fifty (50) percent in the other land classification categories.

- c. Maximum density for areas designated residential shall be determined by adding base density to density bonuses. Density bonuses shall be determined by application of performance measures described in this ordinance. In order to be eligible for any bonus in the resource protection category, the applicant shall utilize at least one of the Category A, B or C environmental bonus items. No density bonuses shall be permitted in the conservation land classification category.

(3) *Density calculations.* Density shall be calculated using land use categories (mixed use or exclusively residential).

- a. Mixed use density shall be calculated using only the gross area identified as mixed use (including streets, parking, common space/open space and other features in the mixed use area).
- b. Residential density shall be calculated using only the gross area identified as residential (including streets, parking, common space/open space and other features in the residential area).
- c. Maximum density shall be calculated for each land classification area within the project. Development in that area shall not exceed the density permitted in the underlying land classification category except for bonuses permitted in this ordinance. Density shall not be aggregated over the entire site except through the procedures defined in section (d) below.
- d. If the applicant designates areas classified resource protection or conservation as not to be developed, the density calculation for the more intense land classification category may be applied to the entire mixed use or residential area.
- e. Land preserved for the purpose described in section (d) above shall only be eligible for full credit towards the minimum open space requirement if it is an integral part of the development. If the entire preserved area is located on the periphery of the development, the area shall only be credited for a maximum fifty (50) percent of the required open space. The purpose of this limit is to ensure open space is not isolated but is an integral part of the development.

(4) *Density bonuses:* In reviewing a final plan/site plan for a mixed use development, the technical review committee (TRC) shall determine if the applicant meets the requirements for receiving bonuses.

Density bonuses are grouped into four (4) categories from highest bonus to lowest bonus. Greater bonuses are awarded for items with more significant benefits to the community. Each item in the categories is eligible for a bonus. The increases in density shall be subject to the following procedures:

- a. *Category A:* The density bonus for providing any individual item in Category A shall be 0.20 floor area ratio or eight (8) dwelling units per



acre. The bonus shall not be split between floor area ratio and dwelling units per acre. The following performance measures are included in Category A:

Environmental. Bonus item: Use of the following low impact development approach in site design to mimic the predevelopment site hydrology for the ten (10) year storm. This approach has several steps that shall be integrated into the site design process. These steps are:

1. Define site constraints. Locate wetlands, floodplains, stream buffers, significant trees, well drained soils, etc.; define the development envelope; minimize disturbance; plan for lengthening of flow paths and disconnecting impervious surfaces.
2. Hydrologic analysis for pre and post development conditions. Use hydrologic modeling to analyze the site; evaluate time of concentration benefits from planning techniques (from step 1); evaluate integrated management practices and supplemental needs.
3. Develop the storm water management plan. Using bioretention areas, infiltration, filter strips, vegetated swales, rain barrels, etc., evaluate the site for appropriate locations and measures through an iterative process; design supplemental controls as needed for meeting predevelopment runoff volume.
4. Long term maintenance. Provide for long term maintenance of techniques and ensure the continuation thereof.

b. *Category B*: The density bonus for providing any individual item in Category B shall be 0.125 floor area ratio or four (4) dwelling units per acre. The bonus shall not be split between floor area ratio and dwelling units per acre. The following performance measures are included in Category B:

1. Community design standards. Bonus item: The applicant shall develop architectural design standards for the entire development consistent with the general site design requirements in this ordinance. The standards shall be maintained by the community property owners association, be filed in the development services department and any changes must be approved by the development services department. If design review is at the sole discretion of the developer, the community property owners association shall be permitted to comment on development. Development review shall be required to determine consistency with established standards for the life of the project.
2. *Transportation enhancements*.
  - i. Bonus item: Provision of a multi-story parking garage (minimum one hundred (100) parking spaces).
  - ii. Bonus item: Provision of private transit service. Service shall be provided to the airport, beaches and downtown Wilmington at a minimum. Service to major employment centers and

shopping centers is encouraged. A minimum two-year contract is required.

3. *Environmental.*

i. Reducing the amount of impervious surface in the development.

1. Bonus item: A maximum fifty (50) percent impervious area for development in the developed and urban transition land classification category. When granted this bonus, the project is not eligible for the bonus for sixty (60) percent impervious surface permitted in Category C.

2. Bonus item: A maximum thirty (30) percent impervious area for development in the resource protection, limited transition and rural land classification categories. When granted this bonus, the project is not eligible for the bonus for forty (40) percent impervious surface permitted in Category C.

ii. Bonus item: Maintaining the predevelopment time of concentration for the ten (10) year storm. MX developments shall demonstrate the replication of predevelopment time to peak by use of the following techniques:

1. Grassed swale conveyance of runoff.

2. Disconnecting impervious surfaces.

3. Lengthening of flow path.

4. Maximize sheet flow.

5. Increase flow over pervious soils to increase infiltration.

6. Flattening grades.

7. Several iterations using different combinations of techniques may be necessary depending on the homogeneity of the site design and the distribution of the different techniques across the site.

8. In addition to these techniques, the development shall meet all City and state requirements and any necessary supplemental measures.

4. *Mixed use buildings.*

i. Bonus item: Inclusion of at least one (1) building that is designated for commercial use on at least the first floor and with at least one (1) floor of residential units above. Residential square feet shall be greater than the commercial square feet in the building.

ii. Bonus item: Inclusion of at least two (2) buildings that are designated for retail use on at least the first floor and with at least one (1) floor of offices above.

5. *Affordable housing.* Bonus item: At least fifteen (15) percent and no more than thirty (30) percent of the residential units are affordable housing subject to the following criteria:

- i. Affordable housing units are available to households earning eighty (80) percent or less of the county median income adjusted for family size, that can be purchased or rented without spending more than thirty (30) percent of their income. Income figures shall be obtained from the Regional Office, U.S. Dept. of Housing & Urban Development, Greensboro, NC.
  - ii. Affordable units shall have a comparable unit distribution to other units in the project. For example, affordable units should not be all multi-family rentals and the mix of affordable one (1), two (2) and three (3) bedroom units should be the same as other units.
  - iii. In order to qualify for the bonus, the following is required: an agreement with the City or deed restrictions specifying 1) the number of affordable units provided; 2) the income limits; 3) maximum purchase price/rent limits subject to annual change; and 4) the period of time that these units must remain affordable (minimum five (5) years for home ownership units and ten (10) years for rental units).
  - iv. In the event that homes or rental units cease to be affordable before the expiration of the minimum period of affordability, the City shall be entitled to capture the increase in value over the original purchase price or value of the rental unit that makes it no longer affordable as defined above.
- c. *Category C*: The density bonus for providing any individual item in Category C shall be 0.025 floor area ratio or one and one-half (1 1/2) dwelling units per acre. The bonus shall not be split between floor area ratio and dwelling units per acre. The following performance measures are included in Category C:
  - 1. *Transportation enhancements*. Bonus item: Provision of a regional park and ride facility (minimum twenty-five (25) parking spaces). The park and ride facility shall be appropriately located for van pool or other services and shall be capable of serving on-site and off-site users.
  - 2. *Environmental*.
    - i. Bonus item: Provision of a minimum one hundred (100) foot naturally vegetated buffer in areas where the Conservation Overlay District or other regulatory agency requires a setback from environmental features. The buffer shall be entirely located on the mixed use site to qualify for a bonus.
    - ii. Bonus item: Increasing the amount of open space provided by a minimum of five (5) percent over the minimum required amount. The additional five (5) percent shall be integral to the development and located in a central area. Sites shall be a minimum fifty (50) acres to qualify for the bonus.

- iii. Reducing the amount of impervious surface in the development.
  - 1. Bonus item: A maximum sixty (60) percent impervious area for development in the developed and urban transition land classification category.
  - 2. Bonus item: A maximum forty (40) percent impervious area for development in the resource protection, limited transition and rural land classification categories.
- d. *Category D*: The density bonus for providing any individual item in Category D shall be 0.0125 floor area ratio or one (1) dwelling units per acre. The bonus shall not be split between floor area ratio and dwelling units per acre. The following performance measures are included in Category D:
  - 1. *Preservation of existing historic resources.*
    - i. Bonus item: Utilization of the Secretary of the Interior's Standards for Rehabilitation, to restore, rehabilitate or preserve properties over fifty (50) years of age, properties considered contributing resources to a National Register Historic District, properties that are individually listed in the National Register Historic District, properties that have been study listed by the State Historic Preservation Office or properties, buildings, structures, sites, landmarks or objects that have been officially determined eligible by the State Historic Preservation Office.
    - ii. Bonus item: Utilization of the Historic Rehabilitation Tax Credits for buildings or structures located on site.
    - iii. Bonus item: Entering into preservation agreements for historic properties with the Historic Wilmington Foundation (or any other non-profit organization whose mission includes the preservation of historic properties) for buildings or structures located on site.
    - iv. Bonus item: Donation of historic properties to a non-profit organization, whose intention is the adaptive reuse of the building, preservation or successful relocation of buildings, structures, sites, landmarks or objects fifty (50) years of age or older, that are individually listed in the National Register of Historic Places, located in a locally designated Historic District or National Register Historic District, study listed by the State Historic Preservation Office or determined eligible by the State Historic Preservation Office.
    - v. Definitions:
      - Buildings and structures* means houses, commercial buildings, fences and bridges.
      - Sites* means battlefields, parks and archeological sites
      - Objects* means large moveable properties, such as fountains and monuments

*Landmarks* means buildings, features or structures that have special significance in terms of historical, pre-historical, architectural, or cultural importance, and possess integrity of design, setting, workmanship, materials, feeling or association.

2. *Pedestrian facilities.* Bonus item: Provision of an internal network of sidewalks in addition to those located along streets and buildings. These facilities shall be in addition to minimum requirements and shall be at least one thousand five hundred (1,500) linear feet. These additional facilities shall be walking trails in residential areas, trails connecting residential areas to open space and mixed use areas or non-invasive trails through environmental preserve areas.
3. *Transit facilities.*
  - i. Bonus item: Provision of bus shelters internal to the development spaced according to Cape Fear Public Transportation Authority specifications to utilize existing public transit service. Bus turnarounds and pull outs shall be included as necessary.
  - ii. Bonus item: Provide funding to the Cape Fear Public Transportation Authority for two (2) years of expanded public transit service to the development.
4. *Miscellaneous transportation enhancements.* Bonus item: Implementation of a transportation demand management program including varied work times and van pool and car pool coordination.
5. *Environmental.*
  - i. Bonus item: Provide a one hundred (100) foot natural buffer from a USGS topographic map blue line stream as described in the Conservation Overlay District.
  - ii. Bonus item: Preserve at least one-half ( 1/2) acre of wetlands or unique habitats as defined by the North Carolina Heritage Program that are not required to be protected by any provisions of the City or other regulatory agencies.

(f) *Common space and open space.*

(1) *Purpose:* It is intended that MX developments be identifiable by functional common spaces and open space, including but not limited to: natural wetlands, forested areas, atriums, parks, internal courtyards, plazas, or other undisturbed or improved spaces.

Common spaces shall shape the design and character of the project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. The pedestrian spaces may include artwork, sculpture and water features to improve their appeal. These spaces shall be designed to create interaction among workers, residents and shoppers. The spaces shall also attempt to provide a pleasant gathering place for transit usage.

Open spaces can be natural or recreational. Natural open spaces are intended to protect the natural environment, protect water quality and provide habitat for wildlife. Recreation open spaces are intended to provide outdoor active recreation facilities and other activity areas for residents, shoppers and employees.

Overlap between spaces considered common space and open space is possible. The definitions are not mutually exclusive. Each MX project shall contain a minimum ten (10) percent common space and a minimum twenty-five (25) percent open space. The developer can propose the allocation of land to these categories. However, common space shall be primarily area for social interaction and have more impervious surface. Open space shall be essentially unimproved pervious area with limited modifications.

- a. *Common space*: At least ten (10) percent of the acreage of the site shall be devoted to common spaces.
  1. Common space includes areas where the public is directly or indirectly invited to gather, browse, sit, interact or congregate. Common spaces do not have to be publicly owned. Common areas may include walking paths, bicycle paths, courtyards, plazas and other similar areas. Unimproved natural areas shall not be counted as common space.
  2. Common spaces shall be arranged as community spaces with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects.
  3. Common spaces are intended to be places for social interaction and may include impervious surfaces.
    - i. Common space amenities shall include at least three (3) of the following:
      1. Sidewalks with substantial ornamental treatments (e.g. brick pavers; change in materials, color or texture; use of impervious materials when consistent with Americans with Disabilities Act).
      2. Sidewalk planters. Planters may be constructed to provide seating around the perimeter.
      3. Public art (e.g. sculpture, fountain, clock, mural, etc.).
      4. Street trees of a caliper fifty (50) percent wider than required by this Code (may include preservation of healthy mature trees adjacent to sidewalks).
    - ii. Amenities should be visible and accessible to the general public from an improved street. Access to pocket parks, plazas and sidewalks shall be provided via a right-of-way or a public access easement.
    - iii. The size or capacity of pedestrian amenities should be proportional to their expected use, including use by employees, customers, residents, and other visitors.
    - iv. Amenities should be consistent with the character and scale of surrounding developments. For example, similarity in awning height, bench style, planter materials, street trees and pavers is

- recommended to foster continuity in the design of pedestrian areas. Materials should be suitable for outdoor use, easily maintained and have a reasonably long life cycle (e.g. ten (10) years before replacement).
- v. When provided at or near a bus stop, amenities should conform to standards of the Cape Fear Public Transportation Authority system.
  4. The walking areas of common spaces shall be surfaced with concrete, brick, tile or another material approved by the technical review committee. The type of surfacing material shall be identified on the site plan.
  5. Construction of bus shelters along project perimeters, shall be mandatory wherever the project includes or is adjacent to an existing or previously identified transit line extension proposed in adopted documents by the Cape Fear Public Transportation Authority, or another public transit provider.
  6. Parking area landscaping and buffer areas shall not be counted toward meeting this requirement.
  - b. *Open space*: A minimum twenty five (25) percent open space shall be provided.
    1. Open space is any area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment. Open space may include active recreational facilities such as swimming pools, total lots, ball fields and picnic tables (recreation open space). However, improved recreational facilities, including golf courses, shall not exceed twenty-five (25) percent of the minimum required open space.
    2. Parking area landscaping and buffer areas shall be excluded from this calculation.
    3. No more than fifty (50) percent of the open space shall be covered by water unless approved by the technical review committee as part of an active recreation area or regional stormwater facility. Standard stormwater retention facilities that meet only minimum City requirements shall not be counted as open space.
    4. The City Council may reduce the open space requirement to as low as twenty (20) percent when equivalent land area or property value for community facilities is provided to the City. Community facilities dedicated to the City including but not limited to parks, recreation buildings or restoration of historic sites shall be eligible for open space credit.
    5. Construction of greenways shall be mandatory whenever the project includes or is adjacent to trails identified on a previously adopted greenway plan.
    6. All open space shall remain undivided and no lot or unit owner or any other person shall bring any action for partition or division of

any part thereof except as provided in Chapter 47A (Unit Ownership Act) of the General Statutes. Active recreational facilities such as pools and tennis courts may be controlled by sub-associations for the residential components of the project. Each lot or unit owner's undivided interest in the use of reasonably maintained open space shall be preserved through covenants running with the land. Title to such areas shall be encumbered for the perpetual benefit of the public generally or the private properties in the development, and all future use shall be consistent with the open space requirements. Improvements clearly incidental to the purpose of these provisions may be made within the open space.

7. *Access to open space*: All residential lots or units created within the development shall have direct access to all open space and recreational facilities, as provided, by means of public streets or dedicated walkways or by the fact of physical contiguity to other public land or lands in common ownership of all residents. The developer shall not place age, race, creed, sex or economic restrictions (other than maintenance assessments) upon lot or unit owners for the use of said open space. Land which is restricted in any way so as to be for the use, benefit or enjoyment of a select group within the development shall not qualify as open space.
8. *Open space provisions*: The developer shall file a declaration of covenants and restrictions running with the land that will govern the open space. This declaration shall be submitted prior to final plat approval. When a property owners association or other such non-profit ownership is established, the declaration shall include but not be limited to the following:
  - i. The homeowners association or the non-profit organization shall be established before any lots are sold;
  - ii. Membership shall be mandatory for each lot buyer and successive buyer;
  - iii. The association shall provide for liability insurance, any taxes and the maintenance of all grounds and facilities;
  - iv. Any sums levied by the association that remain unpaid shall become a lien upon the lot owner's property;

(g) *Procedural requirements for the establishment of an MX District*. Proposals for an MX District shall be processed in three stages: 1) conceptual review, 2) rezoning application/preliminary site assessment; and 3) final plan/site plan. The conceptual plan shall represent the applicant's general sketch and impression of the anticipated pattern of development planned for the MX District. The preliminary site assessment shall specify existing site conditions and the appropriateness of the site for mixed use zoning. The final plan shall be the document on which building permits and other applicable City approvals are issued. Each stage shall be processed in the following order:



(1) *Conceptual review:*

- a. This is a scheduled pre-application conference held with the City development services department to discuss requirements, standards and policies prior to the submission of a formal MX District rezoning petition.
- b. The general outline of the proposed MX (evidenced schematically by sketch plans or drawings showing the proposed location of the MX District, adjacent land uses, major external streets, site conditions, land characteristics, available community facilities and utilities and other applicable information) shall be submitted by the applicant for conceptual review at the pre-application conference.
- c. After holding the required conference, the City development services department shall notify the appropriate representatives of various City agencies (such as the police and fire departments) to obtain preliminary comments regarding the proposed MX. Upon receipt of these comments, the City development services department shall furnish the participants with comments, including appropriate recommendations to inform and assist the applicant prior to preparing a formal MX District rezoning petition.
- d. The applicant is strongly encouraged to meet with neighboring property owners to discuss the conceptual plan. A general summary of the meeting shall be provided to development services staff.

(2) *Rezoning application/preliminary site assessment:*

- a. Application for a MX District shall be filed with the City development services department. The City development services department shall review the preliminary site assessment and MX District rezoning petition in the nature of a legislative amendment to the City's official zoning map. Such an amendment shall be processed pursuant to the general requirements of Article 3, Division VI of this code. Upon receipt of all necessary application materials and a determination of completeness, development services department staff shall schedule the petition before the City planning commission within sixty (60) days.
- b. The City Council, following receipt of the planning commission's recommendation will review the MX District rezoning petition and preliminary site assessment.
- c. Approval of the preliminary site assessment as part of the MX District requirements shall not constitute final plan approval, rather it shall be deemed an approval of the rezoning request. The preliminary site assessment shall be filed in the City development services department.

(3) *Final plan/site plan.*

- a. Application for final plan approval or phases thereof shall be made with the City development services department.
- b. The final plan shall be in compliance with the master plan and no construction, excavation or clearing shall be commenced or any

building permit issued until the final plan has been approved and signed by development services department staff.

- c. Site plan/final plan approval shall constitute the equivalent of preliminary plan approval under the City of Wilmington Subdivision Ordinance. The applicant shall not be required to submit a separate subdivision application. Final plats for subdivision developments, however, shall be submitted in accordance with the subdivision regulation requirements.

(h) *Submittal requirements.*

(1) A preliminary site assessment and necessary documents shall be submitted along with the rezoning petition.

(2) The preliminary site assessment shall be prepared by a multi-disciplinary team consisting of qualified practitioners in architecture, landscape architecture, planning and engineering.

(3) The preliminary site assessment shall be a series of drawings and written statements that provide information about existing conditions and the appropriateness of the site for mixed use zoning. At a minimum the contents of the preliminary site assessment shall include the following:

- a. Scale not less than one (1) inch to four hundred (400) feet.
- b. North arrow.
- c. Vicinity or location map.
- d. Development name.
- e. Owner's name and address.
- f. Developer (if other than owner).
- g. Names of design team.
- h. Date.
- i. Boundary line of the proposed MX District.
- j. Existing topographic information with two (2) foot contour intervals.
- k. All water courses, special flood hazard area (100-year floodplain), mean high water lines, preliminary wetlands delineation (does not require Army Corps of Engineers approval) and unique natural features.
- l. Generalized locations of existing trees or a color spot vertical aerial photograph flown in winter months (November to February).
- m. Adjacent external street pattern and proposed vehicular, bicycle and pedestrian interconnection points.
- n. A chart listing the base residential density permitted for any areas that will be designated specifically residential. The City Council shall consider the maximum densities permitted in the MX District in considering the rezoning request. To qualify for bonuses, the project must meet criteria at the time of site plan review.
- o. A chart listing the base mixed use density. The City Council shall consider the maximum densities permitted in the MX District in considering the rezoning request. To qualify for bonuses, the project must meet criteria at the time of site plan review.

- p. All adjoining land uses and zoning districts.
  - q. Fringe use areas.
  - r. Total gross acres.
  - s. Areas to be left undisturbed.
  - t. Minimum area of open space.
  - u. Boundaries of all land classification categories.
- (4) The preliminary site assessment shall be accompanied by the following:
- a. The names and addresses of each property owner within the proposed MX District.
  - b. A legal description of the proposed MX District.
  - c. A preliminary drainage plan showing the conceptual stormwater management system. This plan is intended to show the general nature of the stormwater management system including information such as the natural direction of flow, a statement about the use of pipes, open ditches or use of natural water features and creation of water features. This plan is not intended to be the final engineering plan required for construction release. The plan shall address in general terms how stormwater will be managed for the entire site and any off-site areas draining through the MX site.
  - d. A preliminary utility plan showing general location of connections to existing and proposed municipal and non-municipal utility systems and infrastructure. This plan is not intended to be a utility plan showing on-site infrastructure but shall indicate the general location and type of municipal and non-municipal utility systems located adjacent to the site that are intended to serve the site.
  - e. A general traffic impact report. The City recognizes that traffic impacts cannot be estimated in detail without specific uses and building sizes. This report shall provide estimates of minimum, maximum and expected vehicles generated by the project. The report shall also include a general allocation of this traffic to external roadways. This report shall not be considered the traffic impact analysis required at the site plan stage.
  - f. *A statement of planning objectives including:*
    - 1. Justification statements that define how the proposed MX zoning has greater public benefit than the existing zoning, how the proposed zoning is consistent with adjacent zoning and land uses, the adequacy of infrastructure to serve the proposed zoning, consistency with the purpose of the MX District and consistency with the comprehensive plan and other City policy documents; and
    - 2. Other necessary information and evidence to support the creation of a MX District in the City.
  - g. The following items described above shall be provided on a schematic drawing or series of drawings at a scale not less than one inch equals four hundred feet (1:400) and provided in both hard copy and digital format:

1. All adjoining land uses and zoning districts.
  2. Boundaries of Land Classification categories.
  3. Fringe use areas (if any).
  4. Natural direction of drainage flow.
  5. General location and size (if applicable) of all adjacent municipal and non-municipal utilities.
  6. Adjacent public and private street rights-of-way including the most current volume and capacity figures.
  7. Any possible street interconnection points.
  8. Adjacent bus stops and bicycle paths.
  9. All water courses, special flood hazard area (100-year flood plain), preliminary wetlands delineation and unique natural features.
  10. Boundaries of the proposed MX District.
- (5) Final plans/site plans required to be submitted for mixed use (MX) developments shall show the following (other items may be required by the technical review committee):
- a. Scale no smaller than one (1) inch to two hundred (200) feet.
  - b. Vicinity or location map.
  - c. Name of designer, engineer or surveyor.
  - d. North arrow.
  - e. Owner's name and address.
  - f. Developer (if other than owner).
  - g. Development name.
  - h. Date.
  - i. Boundary line of tract to be developed drawn accurately to scale with linear and angular dimensions.
  - j. A site data table that includes the following information:
    1. Zoning of the site.
    2. Tract size.
    3. Existing building square feet.
    4. Proposed building square feet in areas designated mixed use.
    5. Acres to be developed.
    6. Total acres occupied by structures (buildings, street right-of-way and parking).
    7. Total acres and boundaries of land lying within the 100-year flood plain and below mean high water mark.
    8. Total acres within wetlands.
    9. Required open space.
    10. Proposed open space.
    11. Required common space.
    12. Proposed common space.
    13. Maximum parking allowed.
    14. Proposed parking.
    15. Required internal landscaping.
    16. Proposed internal landscaping.

- 17. Tree survey including the number of existing regulated trees.
- 18. Trees per acre existing.
- 19. Preserved trees per acre proposed.
- 20. Proposed trees per acre to be planted.
- k. Community property owners association proposed covenants.
- l. Boundaries of all open space areas.
- m. Location of all existing and proposed structures.
- n. Total number of dwelling units to be constructed with number of bedrooms per unit.
- o. Location and right-of-way widths of all streets and easements (and other areas to be dedicated to the public use).
- p. Location and width of all private streets.
- q. Street names and street designations (public or private).
- r. Location and description of all recreation areas and facilities.
- s. Location of natural features including topographical information (contour interval two (2) feet), water courses and approximate natural wooded areas.
- t. Location and description of all common areas.
- u. Final drainage and utility plans including but not limited to location, size and materials of all proposed utility and drainage systems and facilities.
- v. Total acres of submerged land.
- w. If the development is within a Conservation Overlay District: types, boundaries, areas and required setbacks shall be included for all conservation resource areas. Information concerning these areas is available at the City development services department.
- x. The approximate delineation of Corps of Engineers (Clean Water Act) Section 404 and Section 10 Wetlands.
- y. Any required buffers.
- z. Driveway locations and dimensions.
- aa. Parking lot locations.
- bb. A narrative description of how the project will incorporate the General Site Design characteristics defined in this ordinance including any deed restrictions that will enforce design standards.
- cc. All projects developed in phases shall provide a narrative describing the plan for providing infrastructure including but not limited to stormwater management systems, public utilities and internal and external roadway interconnections. This narrative shall describe how infrastructure will be provided during each phase to ensure consistency with the requirements and intent of the MX District.
  - i. *Modifications to plans* All amendments to the MX District shall be processed pursuant to the general requirements of Article X of this ordinance. All amendments to the final plan/site plan shall be consistent with the preliminary site assessment and shall be approved by the technical review committee.

**Sec. 18-186. PD, Planned Development District.**

The Planned Development District regulations established in the South 17th Street/Independence Boulevard Corridor Overlay District are hereby adopted for the PD, Planned Development District. (See Sec. 18-213. CO, Corridor Overlay Districts.) In applying such regulations specific references to the South 17th Street Study Area Plan shall be disregarded.

**Sec. 18-187. HD, Historic District.**

The Historic District (HD) is hereby established pursuant to Article 19 of Chapter 160A of the General Statutes of North Carolina.

(a) *Purpose.* The purpose of the Historic District (HD) (known as the “Theater Historic District”) is to protect and conserve the heritage of the city, county, and state; to safeguard the character and heritage of the City by preserving the district as a whole and individual property therein that embodies important elements of its social, economic, political or architectural history; to promote the conservation of such district for the education, pleasure and cultural enrichment of residents of the district and the city, county, and state as a whole; and to stabilize and enhance the property values throughout the Historic District as a whole, thus contributing to the improvement of the general health and welfare of the City of Wilmington and the residents of the Historic District.

(b) *Density.* Single-family and multiple-family, fourteen and one-half (14.5) housing units per acre.

(c) *Exceptions to the density requirements.* Conversions of residential structures to higher density in the Historic District shall meet the density standards for new construction, except for existing single family structures containing a minimum of two thousand (2,000) square feet of gross floor area, which can be converted into a duplex with each individual unit containing a minimum of one thousand (1,000) square feet of gross floor area without regard to the density requirements.

(d) *Uses Permitted by Right.* The following uses are permitted by right in the HD district, provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

- (1) Duplex
- (2) Offices for use by historic foundation controlling or owning a historic structure
- (3) Single-family, detached
- (4) Triplex
- (5) Quadruplex

(e) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Family care home
- (2) Group home supportive, medium
- (3) Group home supportive, small
- (4) Multi-family, including townhouses

(f) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Adult day care
- (2) Child day care
- (3) Cultural arts center, including theaters, offices, classrooms
- (4) Commercial parking lots
- (5) Group home residential
- (6) Group home supportive, large
- (7) Guest lodging
- (8) Government use outside public rights-of-way, except offices
- (9) Libraries
- (10) Medical offices
- (11) Meeting and events center
- (12) Mixed use buildings
- (13) Museum, art galleries
- (14) Offices, professional
- (15) Religious institutions
- (16) Schools, colleges and universities
- (17) Schools, elementary and junior high
- (18) Uses established prior to 1900 that can be documented to be a historic use of the structure and in continuous operation on the same site

(g) *Permitted Accessory Uses and Structures.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Apartment, accessory
- (2) Apartment, garage
- (3) Bed and breakfast
- (4) Kennel, private
- (5) Home occupation
- (6) Swimming pool



**Sec. 18-188. HDMU, Historic District-Mixed Use.**

(a) *Purpose.* The purpose of the Historic District-Mixed Use (HDMU) zoning district is to protect and conserve the heritage of the City, county, and state; to safeguard the character and heritage of the City by preserving the district as a whole and individual property therein that embodies important elements of its social, economic, political, or architectural history; to promote the conservation of such district for the education, pleasure and cultural enrichment of residents of the district and the city, county, and state as a whole; to support a mixture of uses on a neighborhood scale; and to stabilize and enhance the property values throughout the Historic District, thus contributing to the improvement of the general health and welfare of the City of Wilmington and the residents of the Historic District.

The HDMU in particular also provides the opportunity for a compatible mix of urban uses, including residential to occupy existing and infill buildings, as well as provides design guidance for renovation and new construction to ensure design compatibility. The intent is to allow early existing business districts located outside of the Central Business District to flourish by continuing the urban development pattern.

(b) *District provisions.* The Historic District-Mixed Use is established as a separate use district. The extent and boundaries shall be indicated on the official zoning map of the City of Wilmington. The land use provisions for the HDMU shall prevail in the development of any property within such district; provided, however, that before work is begun, including any construction, alteration, demolition, moving or any other activity that would substantially alter the appearance or character of any appurtenant feature, a certificate of appropriateness in accordance with Sec. 18-96 and Sec. 18-97 herein shall be secured from the historic preservation commission prior to the issuance of any building or any other permit required by the City of Wilmington.

(c) *Density.* Single-family and multiple-family, fourteen and one-half (14.5) housing units per acre.

(d) *Uses Permitted by Right.* The following uses are permitted by right in the HDMU district, provided that they meet all requirements of this section and all other applicable requirements established in these regulations.

- (1) Artists, commercial including silk screening
- (2) Assembly hall (limited to 5000 sf.)
- (3) Banking, with no drive-thru windows
- (4) Business services
- (5) Duplex
- (6) Family care home
- (7) Farmer's market, seasonal only

- (8) Fruit and vegetable market, wholesale with incidental retail
- (9) Internal services facilities incidental to permitted uses, including cafeterias, day care facilities, snack bars, and similar retail activities, conducted solely for the convenience of employees, or occasional visitors, provided any signage for such facilities is not visible beyond the premises.
- (10) Libraries
- (11) Medical offices
- (12) Office, professional
- (13) Parks and recreation areas, municipal
- (14) Personal services
- (15) Post office
- (16) Retail sales establishments
- (17) Schools, trade, correspondence and vocational
- (18) Single-family, detached
- (19) Triplex

(e) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations:

- (1) Group home, small
- (2) Group home, medium
- (3) Mixed use buildings

(f) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Adult day care
- (2) Child day care
- (3) Commercial parking lots
- (4) Convenience food stores
- (5) Government use outside public rights-of-way, except offices
- (6) Grocery stores, under 5,000 sq ft
- (7) Group home residential
- (8) Group home, large
- (9) Guest lodging
- (10) Multi-family, including townhouses
- (11) Quadraplex
- (12) Religious institutions
- (13) Restaurant, fast food-carry out, no drive thru
- (14) Restaurant, standard
- (15) Spas and health clubs

(16) Uses established prior to 1900 that can be documented to be a historic use of the structure and in continuous operation on the same site

(g) *Permitted Accessory Uses and Structures.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (7) Apartment, accessory
- (8) Apartment, garage
- (9) Kennel, private
- (10) Home occupations
- (11) Swimming pool, private

**Sec. 18-189. HD-R, Historic District-Residential.**

- (a) *Purpose.* This district is established to provide within specified areas of the City, including any previously zoned Historic District, sufficient land area for single family residences and other residences specified for the purposes as stated in Sec. 5-19.
- (b) *District provisions.* This Historic District Residential is established as a separate use district which contains portions of the Historic District previously established by this ordinance. The extent and boundaries of the Historic District Residential shall be indicated on the official zoning map of the City of Wilmington. The land use provisions as described in the list of uses for the HD-R shall prevail in the development of any property within such district; provided, however, that before work is begun on any construction, alteration, demolition, moving or any other activity that would substantially alter the appearance or character of any appurtenant feature within the Historic District Residential, a certificate of appropriateness in accordance with Sec. 18-96 and Sec. 18-97 herein shall be secured from the historic district commission prior to the issuance of any building or any other permit required by the City of Wilmington.
- (c) *Density.* Single family and multiple family, fourteen and one-half (14.5) housing units per acre.
- (d) *Exceptions to the density requirements.* Conversions of structures to higher density in the Historic District Residential District shall meet the density standards for new construction, except for existing single family structures containing a minimum of two thousand (2,000) square feet of gross floor area, which can be converted into a duplex with each individual unit containing a minimum of one thousand (1,000) square feet of gross floor area without regard to the density requirements.
- (e) *Uses Permitted by Right.* The following uses are permitted by right in the HD-R district, provided that they meet all requirements of this section and all other applicable requirements established in these regulations:
- (1) Family care home
  - (2) Offices for use by historic foundation controlling or owning a historic structure
  - (3) Recreational facilities, private
  - (4) Single-family, detached
- (f) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.
- (1) Group home supportive, small
  - (2) Group home supportive, medium

(g) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Adult day care
- (2) Child day care
- (3) Cultural arts center, including theaters, offices, classrooms, etc
- (4) Duplex
- (5) Government use outside public rights-of-way, except offices
- (6) Libraries
- (7) Multi-family, including townhouses
- (8) Museum, art gallery
- (9) Parks and recreation areas, municipal
- (10) Religious institutions
- (11) Schools, elementary and junior high
- (12) Uses established prior to 1900 that can be documented to be a historic use of the structure and in continuous operation on the same site

(h) *Permitted Accessory Uses and Structures.* Accessory uses and structures clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Apartment, accessory
- (2) Apartment, garage
- (3) Bed and breakfast
- (4) Kennel, private
- (5) Home occupation
- (6) Swimming pools

**Sec. 18-190. (O&I-1), Office and Institutional District 1**

(a) *Purpose.* The purpose of the Office and Institutional districts shall be to provide areas that are conducive to the establishment and operation of institutional, office and limited commercial activities not involving the sale of merchandise. Standards are designed so that these districts, in some instances, may serve as transitions between residential districts and other commercial districts. The principal means of ingress and egress for uses in the districts shall be along collector roads, minor arterials, and/or major arterials as designated on the City's Thoroughfare Plans.

(b) *Uses Permitted by Right.* The following uses are permitted provided that they meet all requirements of this section and all other applicable requirements established in these regulations.

- 1) Artists, commercial including silk screening
- 2) Assembly hall
- 3) Banking services
- 4) Business services
- 5) Golf course, public or private
- 6) Hospitals, except animal hospitals
- 7) Interior design or decorator shop
- 8) Medical supply stores, retail
- 9) Medical offices
- 10) Musical instrument dealers
- 11) Offices, professional
- 12) Parks and recreation areas, municipal
- 13) Personal services
- 14) Post office
- 15) Recreation facility, private
- 16) Residential hotels
- 17) Restaurants: standard and fast food
- 18) Social services, including employment offices or contractors
- 19) Spas and health clubs
- 20) Veterinary services with enclosed pens

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- 1) Child day care
- 2) Cultural arts center, including theaters, offices, classrooms, etc.
- 3) Governmental uses outside public rights-of-way, except buildings
- 4) Group home supportive, small
- 5) Group home supportive, medium
- 6) Guest lodging

- 7) Libraries
- 8) Mixed use building
- 9) Motels and hotels
- 10) Multiple family including townhouse and limited single family detached development
- 11) Religious institutions
- 12) Schools, colleges and universities
- 13) Schools, elementary and junior high schools
- 14) Schools, trade, correspondence and vocational
- 15) Telecommunication facility, unattended
- 16) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, et

(d) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in this Code.

- 1) Commercial parking lots
- 2) Group day facility
- 3) Group home supportive, large

(e) *Permitted Accessory Uses.* Accessory uses clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

(1) Internal services facilities incidental to permitted uses, including cafeterias, day care facilities, snack bars, and similar retail activities, conducted solely for the convenience of employees, or occasional visitors, provided any signage for such facilities is not visible beyond the premises

(f) *Development Standards.*

1. Dimensional Requirements.

	<b>O&amp;I-1</b>
Min. lot area (square feet)	15,000
Max. lot coverage	40%
Min. lot width (feet)	80
Min. front setback (feet)	20
Min. rear setback (feet)	20 (b) **
Min. interior side setback (feet)	10 (c) **
Min. corner lot side setback (feet)	20
Height (feet)	45 (a)

Notes:

- (a) See subsection (f)(2) below for requirements for increased height up to 75 feet for structures.
- (b) When abutting a residential district, the minimum rear setback shall be twenty-five (25) feet.
- (c) When abutting a residential district, the minimum interior side setback shall be twenty (20) feet.

\*\* For every foot of increased height of structures over twenty (20) feet, the developer shall provide additional interior side and rear yard setbacks at a 1:1 ratio where abutting a residential district.

---

(2) *Height.* Structures within the O&I-1 district shall be limited to a maximum of forty-five (45) feet by right. Structures up to a maximum of seventy-five (75) feet in height may be permitted upon the issuance of a special use permit and if the following conditions are met:

- (a) *Maximum lot coverage.* Thirty-five (35) percent .
- (b) *Setback requirements.* The following setback requirements must be met along any property line which is adjacent to a residentially used or zoned parcel:
  - i. Up to sixty (60) feet in height — Eighty (80) feet (minimum) building setback.
  - ii. Up to seventy-five (75) feet in height—One hundred forty-three (143) feet (minimum) building setback.

(3) *Exposed exterior building materials.* Exterior building materials for new construction shall be limited to the following:

- (1) Wood;
  - (2) Stucco, including synthetic stucco material;
  - (3) Brick;
  - (4) Shingles, including both siding and roof shingles;
  - (5) Vinyl or fiber cement board designed to resemble wooden lap siding or shingles;
  - (6) Glass and glass framing materials;
  - (7) Architectural concrete and concrete products;
  - (8) Natural or manufactured stone products;
  - (9) Ceramic products;
  - (10) Metal roof material;
  - (11) Tile roof material; or
  - (12) A combination of the above listed materials.
- (4) *Trash receptacles.* Trash receptacles and mechanical equipment must be screened from public view by an opaque fence.
- (5) *Site lighting.* Exterior lighting must be installed so as not to shine onto adjacent residentially used or zoned property.



**Sec. 18-191. (O&I-2), Office and Institutional District 2**

(a) *Purpose.* The purpose of the Office and Institutional District 2 shall be to provide business centers that are attractive institutional and office uses at increased intensities to promote economic development. O&I-2 is intended to be utilized in the Commerce Center/Mixed Use Infill areas identified in the Future Land Use Plan and possibly for hospital expansion. The district allows sufficient height to make parking decks a more feasible option and it is hoped the use of height for density will facilitate greater preservation of open space and natural features on these sites. The principal means of ingress and egress for uses in the districts shall be along collector roads, minor arterials, and/or major arterials as designated on the City's Thoroughfare Plans.

b) *Uses Permitted by Right.* The following uses are permitted provided that they meet all requirements of this section and all other applicable requirements established in these regulations.

- (1) Assembly hall
- (2) Banking services
- (3) Business services
- (4) Hospitals, except animal hospitals
- (5) Medical supply stores, retail
- (6) Medical offices
- (7) Offices, professional
- (8) Parks and recreation areas, municipal
- (9) Personal services
- (10) Post office
- (11) Residential hotels
- (12) Social services, including employment offices or contractors
- (13) Spas and health clubs

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Child day care
- (2) Cultural arts center, including theaters, offices, classrooms, etc.
- (3) Governmental uses outside public rights-of-way, except buildings
- (4) Group home supportive, large
- (5) Group home supportive, medium
- (6) Guest lodging
- (7) Libraries
- (8) Mixed use buildings
- (9) Motels and hotels
- (10) Religious institutions

- (11) Schools, colleges and universities
- (12) Schools, elementary and junior high schools
- (13) Schools, trade, correspondence and vocational
- (14) Telecommunication facility, unattended
- (15) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc

(d) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in the City code.

- (1) Commercial parking lots
- (2) Group day facility
- (3) Group home supportive, small

(e) *Permitted Accessory Uses.* Accessory uses clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6, and all other applicable requirements established in these regulations.

Internal services facilities incidental to permitted uses, including cafeterias, day care facilities, snack bars, and similar retail activities, conducted solely for the convenience of employees, or occasional visitors, provided any signage for such facilities is not visible beyond the premises

(f) *Development Standards.*

1. Dimensional Requirements.

	<b>O&amp;I-2</b>
Min. lot area (square feet)	6,000
Max. lot coverage	35%
Min. lot width (feet)	50
Min. front setback (feet)	20
Min. rear setback (feet)	20 (b)**
Min. interior side setback (feet)	5 (c)**
Min. corner lot side setback (feet)	20
Max. height (feet)	80 (a)

Notes:

- (a) See subsection (f)(2) below for exception.
- (b) When abutting a residential district, the minimum rear setback shall be twenty-five (25) feet.
- (c) When abutting a residential district, the minimum interior side setback shall be twenty (20) feet.

\*\* For every foot of increased height of structures over twenty (20) feet, the developer shall provide additional interior side and rear yard setbacks at a 1:1 ratio where abutting a residential district.

---

(2) *Height calculation.* Levels for parking facilities shall not be included in the maximum height calculation, up to a maximum of three (3) levels.

(g) *Exposed exterior building materials.* Exterior building materials for new construction shall be limited to the following:

- (1) Wood;
- (2) Stucco, including synthetic stucco material;
- (3) Brick;
- (4) Shingles, including both siding and roof shingles;
- (5) Vinyl or fiber cement board designed to resemble wooden lap siding or shingles;
- (6) Glass and glass framing materials;
- (7) Architectural concrete and concrete products;
- (8) Natural or manufactured stone products;
- (9) Ceramic products;
- (10) Metal roof material;
- (11) Tile roof material; or
- (12) A combination of the above listed materials

(h) *Trash receptacles.* Trash receptacles and mechanical equipment must be screened from public view by an opaque fence.

(i) *Site lighting.* Exterior lighting must be installed so as not to shine onto adjacent residentially used or zoned property.

**Sec. 18-192. NB, Neighborhood Business District**

(a) *Purpose.* This district is primarily intended to accommodate low-intensity office, retail, and personal service uses at the edges or periphery of residential areas without disrupting the character of nearby residential neighborhoods. The district is established to provide convenient locations for businesses that serve the day-to-day needs of surrounding residents and reduce the need to utilize major road corridors to reach these destinations, thereby reducing traffic congestion. The district is intended to help ease congestion on major roads by providing an acceptable option to place small-scale convenience commercial services closer to where people live. It is not intended to accommodate retail uses that primarily attract passing motorists. Compatibility with any nearby residential neighborhoods is reflected in design standards for both site layout and buildings.

(b) *Uses Permitted by Right.* The following uses are permitted by right provided that they meet all requirements of this section and all other applicable requirements established in these regulations :

- (1) Artists, commercial including silk screening
- (2) Banking; no drive-up window
- (3) Business services
- (4) Dry cleaner; no drive-up window
- (5) Fruit and vegetable market, wholesale with incidental retail
- (6) Laundromat; no drive-up window
- (7) Lawn and garden stores, no outside storage of materials
- (8) Libraries
- (9) Medical offices
- (10) Offices, professional
- (11) Parks and recreation areas, municipal
- (12) Personal services
- (13) Post office; no drive-up window
- (14) Restaurant, no drive-up window
- (15) Retail sales establishments
- (16) Spas and health clubs

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations:

- (1) Convenience food stores
- (2) Religious institutions
- (3) Service stations; no car washes

(d) *Permitted Accessory Uses.* Accessory uses clearly incidental and subordinate to the principal use and structures including the following uses, are permitted

provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Internal services facilities incidental to permitted uses, including cafeterias, day care facilities, snack bars, and similar retail activities, conducted solely for the convenience of employees, or occasional visitors, provided any signage for such facilities is not visible beyond the premises

(e) *Development Standards.* All uses and structures permitted in the NB district shall meet the applicable development standards established in this section and all other applicable requirements of these regulations:

(1) *Dimensional requirements.*

- |                                    |                                  |
|------------------------------------|----------------------------------|
| (a) Max. district size:            | 2 acres (excluding right-of-way) |
| (b) Max. lot size:                 | 9,000 sq. ft.                    |
| (c) Min. lot width:                | 50 ft.                           |
| (d) Max. square feet per use:      | 5,000 sq. ft.                    |
| (e) Street setbacks (Min./Max.):   |                                  |
| Local and collector streets:       | 15/30 ft.                        |
| Minor thoroughfares:               | 20/45 ft.                        |
| Major thoroughfares:               | 35/60 ft.                        |
| (f) Side and rear setbacks (Min.): |                                  |
| Adj. to non-residential:           | 0 or not less than 5 ft.         |
| Adj. to residential zoning:        | 20 ft.                           |
| (g) Max. building height:          | 35 ft.                           |

(2) *Site design standards.*

- a. *Parking.* For all construction on corner or double frontage lots, curb cuts to parking lots shall be placed on side streets, and/or to the rear of buildings, except where no other access is available. Parking shall be screened from all street frontages by shrubbery, hedges, or masonry walls. Opaque fencing may not be used for screening parking lots. Plantings which screen parking lots should achieve 100% opacity within one year. Landscaped islands that are a minimum of 216 square feet in size shall be interspersed throughout the lot, so that a tree will be located within fifty (50) feet of any parking space. No more than thirty (30) percent of the parking may be located between the building and any street frontage and no more than two rows of parking spaces with one drive aisle are permitted on sides of the building with street frontage. The remainder of the required parking must be located to the rear of the building.
- b. *Access and circulation.* Provide connections to adjacent commercially-zoned parcels, or if adjacent parcels are undeveloped, stub-outs must be

provided. Shared driveways are required between commercially-zoned parcels.

- c. *Utility and equipment screening.* HVAC equipment, air conditioning window units, and other electrical equipment, and fire escapes shall not be located on facades with street frontage. All such equipment shall be placed in the interior yards or inset into the roof pitch of the building and screened from the right-of-way. Through-wall mechanical units are permitted on any facade if they are incorporated into the design of the building, flush with the facade on which they are located, concealed by a vent cover and have an internal drip system for condensation. Utility meters, transformers and fixed trash disposal receptacles which cannot be located out of sight shall be screened from the public right-of-way by plantings or fencing with the exception of chain link.
  - d. *Drive-up facilities and service islands.* Prohibited.
  - e. *Outdoor storage of materials.* Prohibited.
  - f. *Site lighting.* Site lighting shall be limited to that needed for safety. All site lighting shall be located, angled, shielded, and/or limited in intensity so as to cast no direct light upon adjacent streets or properties.
    - 1. unrestricted lighting—maximum of ten (10) ft. above ground or pavement
    - 2. ninety (90)-degree cut-off lighting—maximum of fifteen (15) ft. above ground or pavement.
- (3) Building design standards.
- a. *Building facades.* No building facade facing the public street right-of-way shall be devoid of architectural enhancements or interest. For street corner buildings, both street elevations shall be architecturally enhanced as a front facade. Building facades shall incorporate periodic transitions spaced at intervals no greater than two-thirds of the building height. Such transitions may be achieved by methods such as a change in fenestration (windows and doors), emphasis of structural lines or members, building offsets or change in materials.
  - b. *Roof pitch.* Roof pitch shall be a minimum of 4:12. Mansard roofs are prohibited.
  - c. *Facade materials.* Vinyl, aluminum, and vertical siding, fieldstone, unparged concrete block, masonite, and corrugated metal are prohibited.

**Sec. 18-193. MSMU, Main Street Mixed Use**

(a) *Purpose.* The purpose of the Main Street Mixed Use zoning district is:

- (1) to enhance and retain the urban development pattern and context where intact in commercial or mixed use areas outside of the Central Business District (CBD);
- (2) to ensure that infill development and redevelopment do not adversely affect the physical character and context of the area; and
- (3) to encourage private investment to improve and stimulate the economic vitality and social character of areas.

(b) *Uses Permitted by Right.* The following nonresidential uses are permitted by right in the MSMU district, provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

- (1) Artists, commercial including silk screening
- (2) Banking; no drive-up windows
- (3) Business services
- (4) Fruit and vegetable market, wholesale with incidental retail
- (5) Janitor services, commercial
- (6) Libraries
- (7) Medical offices
- (8) Nursing and personal care facility
- (9) Offices, professional
- (10) Personal services
- (11) Post office; no drive-up windows
- (12) Restaurants; no drive-up windows
- (13) Retail sales establishments
- (14) Schools: correspondence, vocational and specialty training schools

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

(1) *Residential:*

- a. Adult day care
- b. Child day care
- c. Home occupation
- d. Multi-family (except may not be permitted on ground level fronting any street)
- e. Residential care

(2) *Non-residential:*

- a. Convenience food stores
- b. Governmental uses outside public rights-of-way, except offices

- c. Guest lodging
- d. Mixed use buildings
- e. Motion picture production and distribution
- f. Religious institutions

(e) *Development standards.* All uses and structures permitted in the MSMU district shall meet the applicable development standards established in this section and all other applicable requirements of these regulations:

(1) *Dimensional requirements.*

- a. Max. residential density : 4 per lot
- b. Max. commercial uses: None
- c. Min. lot area: None
- d. Max lot width. 66 feet
- e. Front setbacks:  
New construction shall be constructed to align with the predominant existing setback of the block face, or if no predominant setback exists, then construction shall align with the street right-of-way.
- f. Side and rear setbacks:  
None, except where adjacent to residential zoning, in which case the setback shall be five (5) feet.
- g. Max. building height: 40 feet

(2) *Site Design Standards.*

- a. *Bufferyards.* See Article 8, Division VII Sec. 18-503.
- b. *Parking and access.* Off-street parking for nonresidential uses is not required in the MSMU district.
- c. Off-street parking is required for new residential uses as stated below:
  - i Single unit - 1 space
  - ii Two (2) units per building: 1-space /unit
  - iii Three (3) or more units per building: 1.2 spaces /unit
- d. Off-street parking design. For all construction on corner or double frontage lots, curb cuts to parking lots shall be placed on side streets, and/or to the rear of buildings, except where no other access is available. New parking lots shall be located to the interior sides or rear of buildings. Parking shall be screened from any adjacent street frontage by either masonry walls, shrubbery or hedges no more than forty-two (42) inches in height. Chain link fences are not permitted. Landscaped islands with trees shall be interspersed throughout the lots, so that a tree will be located within fifty (50) feet of any space. Through-lots may have access from residential streets at the rear of the development.



- e. Street trees. For new commercial development, street tree-plantings in below-grade planters on the public right-of-way shall be included at the rate of one (1) tree for each thirty (30) feet of frontage. If the City Manager determines there is no plaza or other space available for tree-plantings in the right-of-way, then a payment in lieu, equal to the cost for required trees, shall be paid by the developer into the City of Wilmington Tree Improvement Fund. All plans for street tree plantings must be reviewed and approved by the City Manager and must be a minimum of three (3) inches in caliper.
- f. *Drive-up facilities and service islands.* Prohibited.
- g. *Outdoor storage of materials.* Prohibited.
- h. *Site lighting.* All site lighting shall be located, angled, shielded, and limited in intensity so as to cast no direct light upon adjacent streets or properties. All new lighting shall be restricted to the following heights:
  - i unrestricted lighting—maximum of ten (10) ft. above ground or pavement
  - ii ninety (90)-degree cut-off lighting—maximum of fifteen (15) ft. above ground or pavement.
- i. *Additional treatments.* HVAC equipment, air conditioning window units, and other electrical equipment shall not be located on facades with street frontage. All such equipment shall be placed in the interior yards or on the roof of the building and screened from the right-of-way. Through-wall mechanical units are permitted on any facade if they are incorporated into the design of the building, flush with the facade on which they are located, concealed by a vent cover and have an internal drip system for condensation. Utility meters, transformers and fixed trash disposal receptacles which cannot be located out of sight shall be screened by fencing and/or landscaping. Chain link fences are prohibited in any capacity.

(3) Building design standards.

- a. *Building orientation.* All buildings shall be oriented towards primary streets. For new buildings on corner properties, both street elevations are considered to be front facades and must be designed to address the street at least by incorporating windows and if desired, doors.
- b. *Massing and development scale.* Facades shall be designed to eliminate blank walls and create compatible massing and scale with the block face. For buildings greater than thirty-three (33) feet in width, facades shall incorporate periodic transitions no further apart than two-thirds of the building height in order to create a vertical orientation. This transition may be achieved by utilizing methods including but not limited to: façade offsets, pilasters or change in materials. For buildings greater than fifty (50) feet in width, facades shall be expressed as two separate building facades utilizing methods including but not limited to the aforementioned methods. The predominant

orientation of fenestration (window arrangement) within the façade shall also be vertical.

- c. *Roofs.* All roofs for new construction shall be a flat roof (with slight slope for drainage) with a parapet walls or utilize a pitch matching that of the majority of the block face on the subject side of the street. Prefabricated standing seam metal roofs are prohibited on new or existing construction.
- d. *Height relationships.* The exterior expression of any building facade that is twenty (20) feet or more in height must be distinguished at a point not less than thirteen (13) feet, four (4) inches above the ground level at the front façade. This distinction may be accomplished by incorporating features that include but are not limited to a horizontal architectural member such as molding or a change in materials or fenestration.
- e. *Building entries and pedestrian-scale design.* Facades fronting rights-of-way shall be detailed to create a pedestrian scale. Methods to create pedestrian scale include, but are not limited to: transition of façade materials, definition of entryways with architectural elements such as transoms, moldings, offsets, or recesses. Entrances shall be recessed from the property line allowing a pedestrian space between the sidewalk and the front door. For buildings located on street corners, a corner entrance is permissible.
- f. *Street-level facades.* Window glazing shall be the predominant material in the street-level facade. Such glazing shall be transparent under all lighting conditions; however, spandrel or colored glass may be used above the height of the door head. Glazing shall extend from a base of contrasting material to at least the height of the door head. Exterior burglar bars, fixed "riot shutters," or similar visible security devices shall not be installed in any new or existing commercial storefront. Residential uses are not permitted on the ground level fronting any street.
- g. *Facade materials.* Vinyl or aluminum siding, fieldstone, unparged concrete block, masonite, and corrugated metal are not permitted.

(4) Signage.

See Sec. 18-573 and Sec. 18-575; however, that freestanding signs are not permitted in the MSMU district. Additionally, Sec. 18-576 does not apply to the MSMU district.

**Sec. 18-194. CB, Community Business District**

(a) *Purpose.* The Community Business District is created to accommodate a broader range of commercial services to meet the daily needs of the surrounding neighborhoods. Development in the CB district will reflect both pedestrian and automobile-oriented types and will be located as directed by adopted plans and policies, and typically accommodate larger scale retail and commercial service uses than the Neighborhood Business (NB) District.

(b) *Uses Permitted by Right.* The following uses are permitted provided that they meet all requirements of this section and all other applicable requirements established in these regulations.

- (1) Amusement and recreation services, indoor
- (2) Assembly hall
- (3) Banking services
- (4) Business services
- (5) Contractor's office
- (6) Convenience food stores
- (7) Gun sales, including repair
- (8) Laboratories, testing
- (9) Limited price variety stores less than 10,000 sq. ft.
- (10) Liquor stores
- (11) Marinas
- (12) Medical offices
- (13) Motels and hotels
- (14) Movie theaters
- (15) Nursing and personal care facility
- (16) Offices, professional
- (17) Parks and recreation areas, municipal
- (18) Personal services
- (19) Post office
- (20) Residential hotels
- (21) Restaurants, standard
- (22) Restaurants; fast food, carry-out
- (23) Retail sales establishments
- (24) Schools, trade or vocational
- (25) Spas and health clubs
- (26) Upholstery and furniture repair
- (27) Veterinary services with enclosed pens

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Automotive services, except repair and towing service
- (2) Automobile renting and leasing
- (3) Auxiliary uses and wares
- (4) Bowling alleys and pool halls
- (5) Child day care
- (6) Commercial parking lots
- (7) Governmental uses outside public right-of-way, except offices
- (8) Group home supportive, large and medium-
- (9) Guest lodging
- (10) Libraries
- (11) Mini warehousing
- (12) Mixed use buildings
- (13) Motion pictures production and distribution
- (14) Multi-family including townhouse and limited single family detached development in the O&I, CB and RB districts
- (15) Religious institutions
- (16) Residential unit contained within principal use
- (17) Service stations
- (18) Shopping centers
- (19) Skating rink, ice or roller
- (20) Telecommunication facilities, unattended
- (21) Tire dealers and service
- (22) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc.

(d) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in the City code.

- (1) Group day facility
- (2) Group home supportive, small
- (3) Group home residential

(e) *Permitted Accessory Uses.* Accessory uses clearly incidental and subordinate to the principal use including the following are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Internal services facilities incidental to permitted uses, including cafeterias, day care facilities, snack bars, and similar retail activities, conducted solely for the convenience of employees, or occasional visitors, provided any signage for such facilities is not visible beyond the premises
- (2) Kennels, private

(f) *Prohibited Uses.* Outdoor storage or display of merchandise, materials or supplies, including but not limited to contractor's offices.

(g) *Development Standards.* In addition to meeting the General Development Standards set forth in this Code, all development within the CB district shall meet all applicable development standards established in this section and other requirements of these regulations.

(1) Dimensional Requirements.

(a) Min. lot area	1/2 acre (a)
(b) Min. lot width (feet)	80
(c) Max. lot coverage (%)	30
(d) Min. front setback (feet)	20
(e) Min. rear setback (feet)	10 (b)**
(f) Min. side setback (feet)	0 (c)**
(g) Min. corner lot side setback (feet)	20
(h) Max. height (feet)	35

Notes:

(a) Maximum floor area per development site: 100,000 square feet

(b) When abutting a residential district, the minimum rear setback shall be twenty-five (25) feet.

(c) When abutting a residential district, the minimum interior side setback shall be twenty (20) feet.

\*\* For every foot of increased height of structures over twenty (20) feet, the developer shall provide additional interior side and rear yard setbacks at a 1:1 ratio where abutting a residential district.

---

**Sec. 18-195. RB, Regional Business District.**

(a) *Purpose.* This district is established to accommodate large commercial facilities offering goods and services meeting the needs of the City, County and regional residents. It is designed to locate at the intersections of major thoroughfares and occur in clustered patterns. The district is intended to encourage one-stop shopping at convenient and safely accessible locations.

(b) *Uses Permitted by Right.* The following uses are permitted provided that they meet all requirements of this section and all other applicable requirements established in these regulations.

- (1) Amusement and recreation services, indoor
- (2) Artists, commercial including silk screening
- (3) Assembly hall
- (4) Automobile and truck dealers, new and used
- (5) Automobile care center
- (6) Automobile parts and supply store
- (7) Automobile renting and leasing
- (8) Banking services
- (9) Building material dealers
- (10) Bus and taxi service
- (11) Business services
- (12) Carpet and upholstery cleaners
- (13) Chimney and furnace cleaning
- (14) Contractors office
- (15) Contractors' equipment and supply dealers and service, with no open storage of materials
- (16) Convenience food stores
- (17) Divers, commercial
- (18) Drive-in theater
- (19) Exterminating services-dwellings and other buildings
- (20) Fuel and ice dealers
- (21) Furniture stores
- (22) Gun sales, including repair
- (23) Hospitals, except animal hospitals
- (24) Janitor services
- (25) Laboratories, testing
- (26) Liquor stores
- (27) Manufactured housing dealers
- (28) Marina
- (29) Medical offices
- (30) Motels and hotels
- (31) Motorcycle dealers
- (32) Movers, van lines and storage

- (33) Movie theaters, except drive-in
- (34) Night clubs, not contained in restaurants, motels or similar business
- (35) Nursing and personal care facilities
- (36) Offices, professional
- (37) Parks and recreation areas, municipal
- (38) Personal services
- (39) Photography studios
- (40) Post office
- (41) Recreational vehicles and utility trailer dealers
- (42) Research and development laboratories
- (43) Residential hotels
- (44) Restaurant, fast food-carry out
- (45) Restaurant, standard (sit-down)
- (46) Retail sales establishments
- (47) Ship chandler
- (48) Small engine repair, except automotive
- (49) Social services
- (50) Spas and health clubs
- (51) Upholstery and furniture repair
- (52) Veterinary service with enclosed pens

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Automotive services, except repair and towing services
- (2) Auxiliary uses and wares
- (3) Bowling alleys and pool halls
- (4) Child day care
- (5) Communication facilities, including radio and TV stations, cellular telephone facilities, towers, etc
- (6) Commercial parking lots
- (7) Furniture stores
- (8) Governmental uses outside public rights-of-way, except offices
- (9) Group home supportive, large
- (10) Group home supportive, medium
- (11) Guest lodging
- (12) Libraries
- (13) Multiple family including townhouse and limited single family detached development
- (14) Religious institutions
- (15) Residential unit contained within principal use
- (16) Schools, college and universities
- (17) Schools, trade, correspondence and vocational schools
- (18) Service stations
- (19) Shopping center

- (20) Skating rink, roller and ice
- (21) Telecommunication facility
- (22) Tire dealers and service
- (23) Upholstery and furniture repair
- (24) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc

(d) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Group day facility
- (2) Group home residential
- (3) Group home supportive, small

(e) *Permitted Accessory Uses.* Accessory uses clearly incidental and subordinate to the principal use and structures including the following uses are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

Internal services facilities incidental to permitted uses, including cafeterias, day care facilities, snack bars, and similar retail activities, conducted solely for the convenience of employees, or occasional visitors, provided any signage for such facilities is not visible beyond the premises

(f) *Development Standards.* In addition to meeting the General Development Standards set forth in this Code, all development within the RB district shall meet all applicable development standards established in this section and other requirements of these regulations.

(1) Dimensional Requirements.

- |  |           |
|--|-----------|
| (a) Min. lot area:                       | 1 acre    |
| (b) Min. lot width (feet):               | 100       |
| (c) Max. lot coverage (%):               | 40        |
| (d) Min. front setback (feet):           | 25        |
| (e) Min. rear setback (feet):            | 15 (b)(d) |
| (f) Min. interior side setback (feet):   | 0 (c)(d)  |
| (g) Min. corner lot side setback (feet): | 25        |
| (h) Max. height (feet):                  | 35+ (a)   |

Notes:

- (a) See subsection (f)(2) below for increased building height allowances to a maximum of ninety-six (96) feet.
- (b) When abutting a residential district, the minimum rear setback shall be twenty-five (25) feet.
- (c) When abutting a residential district, the minimum interior side setback shall be twenty (20) feet.



(d) For every foot of increased height for structures over twenty (20) feet, the developer shall provide additional interior side and rear yard setbacks at a 1:1 ratio where abutting a residential district.

---

(2) Building height. Building height may be increased when additional side and rear yards are provided in accordance with the following standards. The maximum height of any building, shall be ninety-six (96) feet. The formulas for increases are as follows:

<b>Height of Building Above 35 Feet</b>	<b>Additional Yard Requirements for Districts Noted by 35+ (a)</b>
First 10 feet above 35 feet	4 feet for each 10 foot increment, or portion thereof
10.1 to 30 feet above 35 feet	6 feet for each 10 foot increment
30.1 or more above 35 feet	8 feet for each 10 foot increment

**Sec. 18-196. CBD, Central Business District.**

(a) *Purpose.* This district is established to create and maintain a high density commercial, office, service and residential area meeting City, county and regional needs. It encourages the full utilization of public services and contributes to the economic base of the City. The Wilmington Downtown Plan: Vision 2020 outlines a plan for the future of downtown Wilmington in a way that balances historic preservation, maintains City character, encourages economic development, and protects critical natural and environmental resources. The plan envisions the development of a living, working, learning and mixed-use community from "bridge to bridge." The intent of the design standards is to retain the quality and continuity of existing historic buildings and the preservation of the cohesive character of the downtown area by compatible, sympathetic construction. In addition to these standards, the United States Secretary of the Interior's Standards for Rehabilitation should be considered when proposed work impacts existing historic buildings or structures. If there is documentary evidence of an architecturally significant structure that has been demolished, incorporation of elements of the removed structure into the new design is encouraged when appropriate.

The urban planning framework within which these standards apply must also be considered if the Vision 2020 goals are to be fulfilled. There are four premises which relate to the district as a whole beyond the scope of individual parcels:

*Heritage.* The central business district's heritage and historic resources should be recognized and respected as evidence of past development and as contributing to the image of downtown. While new development shall reinforce the historic integrity of the district, each property shall be recognized as a physical record of its time, place and use. Some portions of the district have a wealth of historically significant structures while others have few. In addition to the context of the developed urban core, compatibility with the immediate context should be considered.

*Public spaces and pedestrian scale.* The central business district is to be considered primarily as a pedestrian oriented domain. The introduction of public spaces within or in conjunction with new development is encouraged. The physical boundaries defining these pedestrian zones shall reinforce the building setbacks for that area. Existing pedestrian thoroughfares such as the riverwalk shall be enhanced by nearby development with the use of pedestrian-scale features.

*Circulation.* New development shall reinforce the existing grid for pedestrian and vehicular thoroughfares. Development shall also be respectful to gateway areas, arrival corridors and major public destinations throughout the district. Overlays of vehicular and pedestrian oriented areas should provide safe and accessible transitions.

*Districts and nodes.* The central business district is comprised of different areas and nodes such as the government offices node, historic commercial areas,

historic residential pockets, river industrial area and community college node. New development shall consider the immediate area identity in terms of scale and physical attributes of the developed urban core.

(b)*Density*: Residential uses as described below. All other uses: no maximum density.

- (1) There is no maximum density requirement for rehabilitation of existing buildings for residential purposes, regardless of parcel size.
- (2) There is no maximum density requirement for new residential construction on a site less than one-half (1/2) acre.
- (3) The maximum density for new residential construction on all parcels exceeding one-half (1/2) acre in size shall be one hundred (100) dwelling units per acre.

(c)*Description*. With the exception of N. 4th Street extension northward, the Central Business District has historically been bounded by Red Cross Street on the north, Fourth Street on the east, Orange Street on the south and the Cape Fear River on the west. Some variations on this general area have occurred, but they are immediately related to the core.

(d)*Wilmington Downtown Plan: Vision 2020 Central Business District supplemental regulations*. In addition to the general and specific regulations imposed by this Chapter on the use of property in the Downtown Vision 2020 Plan area, the following regulations apply to the Central Business District. The portions of the existing CBD that are also part of the Historic District Overlay are not subject to the supplemental regulations of the Vision 2020 Plan.

For all new residential and commercial construction and redevelopment where applicable:

(1) *Building orientation*. All new commercial buildings and new residential construction shall be oriented towards major ways and streets to reinforce the downtown grid pattern. On corner properties, both street elevations are considered front facades for new commercial buildings. Building facades on corner lots should address the corner.

(2) *Massing and development scale*. Facades shall be designed to reduce the massing, scale and uniform monolithic appearance of large unadorned walls, while providing visual interest that will be congruous with the developed urban core and character through the use of detail and scale. Building massing shall have periodic transitions across the facade as needed to relate to the existing central business district developed urban core. The following design element standards apply to all new construction:

- a. Building facades shall incorporate periodic transitions such as expression of structural lines with offsets or change of materials. Transitions shall be no further apart than two-thirds of the building height which will produce a vertical orientation. This shall also be the

predominant orientation of fenestration within the facade. Large building facades shall be varied so that they are divided into distinct massing elements utilizing details that are perceived at the scale of the pedestrian.

b. If the height of a building exceeds the plane as allowed in this ordinance, then the scale and relationship to the existing adjacent structure shall be addressed by transitional elements such as stepped massing incorporating offsets or other delineating features relating to the scale of the surrounding context.

c. All roofs for new construction shall be a flat roof (low slope) with parapet walls, barrel roofs or have a minimum pitch of 4:12. Vertical changes from the dominant roof condition should be encouraged for facades facing a major street having flat roofs with parapet walls.

(3) *Height relationships.* In calculating the dimensions of a story for new construction, the following provisions shall apply: The exterior expression of the facade height at the pedestrian level, that may be distinguished by a distinct horizontal architectural member, or a change in materials or fenestration, shall not be less than thirteen (13) feet, four (4) inches. This standard does not apply to interior floor plates or structures less than two stories.

(4) *Street wall definitions.* New commercial and residential buildings shall be constructed immediately adjacent to or within five (5) feet of the street right-of-way. In addition, exceptions to this requirement may be permitted to align buildings with the setbacks of neighboring structures or to preserve historic public vistas. Doors, windows or other architectural elements that relate to the character of the front facade of the building shall be used on the remaining elevations visible from the public right-of-way.

(5) *Building entries and pedestrian scale materials.* Buildings fronting sidewalks shall have detailed facades that create a pedestrian-scale environment by marking entryways with identifiable elements that orient the structure and break down the scale of the facade, such as the use of recessed windows and entries, arcades, facade transitions, balconies, covered walkways or differentiated roof forms or wall surfaces.

(6) *Street level facades.* Retail stores shall front onto public sidewalks to reinforce activity levels along public streets. Window glazing shall be the predominant material in the first story of the street level facade for commercial retail development. Such glazing shall be transparent under all lighting conditions, however, spandrel or colored glass may be used in the area above the height of the door head. Storefront glazing shall extend from the sill or from a base of contrasting material to at least the height of the door head. Storefront entrances shall be recessed from the property line allowing a pedestrian space between the sidewalk and the front door. For buildings located on street corners, a corner entrance is permissible. Exterior burglar bars, fixed "riot shutters", or similar security devices shall not be installed in any new or existing commercial storefront.

(7) *Exterior building materials.* Acceptable exterior building materials for the CBD must be congruous with the historic context of the district. Equal or substitutive material should be consistent in color, texture and appearance to that of the original structure. Materials without a visual historic precedent in the developed urban core shall not be permitted. Vinyl siding is not permitted.

(8) *Original facades.* If original facade material is degraded and in need of repair, improvements shall be made with materials that are visually equal to that of the original structure. Improvements made to structures that are considered contributing resources to the Wilmington National Register Historic District or over fifty (50) years old, should apply The Secretary of the Interiors Standards for Rehabilitation. These properties may also be eligible for a rehabilitation tax credit administered by the State Historic Preservation Office.

(9) *Minimum height requirement.* Heights of new commercial buildings east of Front Street in areas 2 and 3 as referenced in Sec.18-196 (i)(10) shall be built to a minimum of two (2) stories or a minimum height of twenty-five (25) feet, whichever is greater for the portions of the building that abut street frontages and for at least fifty (50) percent of the building area.

(10) *Alterations.* Alterations or additions to buildings and/or structures that are considered contributing resources to the Wilmington National Register Historic District or over fifty (50) years old, should apply the Secretary of the Interiors Standards for Rehabilitation. These improvements shall be made in a manner and style that if such alterations were removed in the future, the essential form and integrity of the structure would be unimpaired.

(11) *Parking and access.* For all new construction on corner or double frontage lots, curb cuts to parking lots shall be placed on side streets, and/or to the rear of buildings, except where no other access is available. New surface parking lots shall be located to the interior sides and rear of buildings and screened from the principal street frontage by permanent walls, fences, shrubbery or hedges no more than four (4) feet in height. Chain link fences are not permitted. Landscaped islands with trees shall be interspersed throughout the lots, so that a tree will be located within one hundred (100) feet of any space.

(12) *Streets, landscaping.* For new commercial development, street tree plantings in below grade planters on the public right-of-way shall be included at the rate of one (1) tree for each thirty (30) feet of frontage. If the City Manager or designee determines there is no plaza or other space available for tree plantings in the right-of-way, or determines that the planting is problematic for the site, then a payment in lieu, equal to the cost for required trees, shall be paid by the developer into the City of Wilmington Tree Improvement Fund. All plans for street tree plantings must be reviewed and approved by the City Manager or designee and must be a minimum of three (3) inches in caliper.

(13) *Drive-up windows and service islands.* Drive-up windows and service islands shall be located in the side or rear yards. For corner lots, drive-up windows or service islands shall be located in the rear.

(14) . *Residential garages and accessory structures.* Only rear or side yard siting is permitted. The scale of the freestanding garage or accessory structure shall not be greater than fifty (50) percent of the primary structure in massing and scale.

(15) *Additional treatments.* HVAC equipment, air conditioning window units, and other electrical equipment shall not be located on facades with street frontage. All such equipment shall be placed in the interior yards or on the roof of the building and screened from the right-of-way. Through-wall mechanical units are permitted on any facade if they are incorporated into the design of the building, flush with the facade on which they are located, concealed by a vent cover and have an internal drip system for condensation. Utility meters, transformers and fixed trash disposal receptacles which cannot be located out of sight shall be screened.

(e)*Uses Permitted by Right.* The following uses are permitted provided that they meet all requirements of this section and all other applicable requirements established in these regulations.

- (1) Amusement and recreation services, indoor
- (2) Artists, commercial including silk screening
- (3) Assembly halls
- (4) Automobile and truck dealers, new and used
- (5) Automobile parts and supply store
- (6) Automobile renting and leasing
- (7) Banking
- (8) Bus and taxi service
- (9) Business services
- (10) Chimney and furnace cleaning
- (11) Contractor's office,
- (12) Contractor's equipment and supply dealers and service, no open storage of materials
- (13) Contractors, special trades-electricians, plumbers, etc. with no open storage of materials
- (14) Convenience food stores
- (15) Divers, commercial
- (16) Exterminating services-dwellings and other buildings
- (17) Fruit and vegetable market, wholesale with incidental retail
- (18) Fuel and ice dealers
- (19) Gun sales, including repair
- (20) Janitor services
- (21) Liquor stores
- (22) Marina
- (23) Medical offices
- (24) Motels and hotels
- (25) Motorcycle dealers
- (26) Movers, van lines and storage
- (27) Movie theaters, except drive-in

- (28) Night clubs, not contained in restaurants, motels, or similar business
- (29) Nursing and personal care facility
- (30) Offices, professional
- (31) Parks and recreation areas, municipal
- (32) Personal services
- (33) Post office
- (34) Railroad facilities, including passenger and freight stations outside of railroad right-of-way
- (35) Recreation facility, private-including clubs and recreation facilities associated with multiple family complexes, golf courses, tennis facilities, country clubs, etc.
- (36) Recreational vehicles and utility trailer dealers
- (37) Research and development laboratories
- (38) Residential hotels
- (39) Restaurant, fast food-carry out
- (40) Restaurant, standard (sit-down)
- (41) Retail sales establishments
- (42) Ship chandler
- (43) Shipping brokers, freight and cargo, without storage
- (44) Single-family, detached
- (45) Small engine repair, except automotive
- (46) Social services
- (47) Spas and health clubs
- (48) Upholstery and furniture repair
- (49) Used merchandise stores, except automotive goods
- (50) Veterinary service with enclosed pens
- (51) Water transportation

(f) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Automotive services
- (2) Auxiliary uses and wares
- (3) Bowling alleys and pool halls
- (4) Child day care
- (5) Commercial parking facilities
- (6) Communication facilities, including radio and TV stations, cellular telephone facilities, towers, etc
- (7) Contractors, with open storage of materials
- (8) Dormitory, private
- (9) Duplex, triplex, quadraplex
- (10) Furniture and other home furnishings store
- (11) Governmental uses outside public rights-of-way, except offices
- (12) Group home residential

- (13) Group home supportive, large
- (14) Group home supportive, medium
- (15) Guest lodging,
- (16) Interim parking facilities
- (17) Libraries
- (18) Meeting and events center
- (19) Multi-family, including townhouses
- (20) Religious institutions
- (21) Residential unit contained within principal use permitted by right
- (22) Schools, college and university
- (23) Schools, trade, correspondence and vocational schools
- (24) Service stations
- (25) Shopping center
- (26) Skating rink, roller and ice
- (27) Tire dealers and service
- (28) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc
- (29) Warehousing, general
- (30) Wholesale trading

(8) (g) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Commercial parking lots
- (2) Communication facilities, including radio and TV stations, cellular telephone facilities, towers, etc
- (3) Group day facility
- (4) Group home residential
- (5) Group home supportive, small
- (6) Planned unit development

(h) *Permitted Accessory Uses.* Accessory uses clearly incidental and subordinate to the principal use and structures including the following uses, are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Apartments, garage
- (2) Internal services facilities incidental to permitted uses, including cafeterias, day care facilities, snack bars, and similar retail activities, conducted solely for the convenience of employees, or occasional visitors, provided any signage for such facilities is not visible beyond the premises
- (3) Kennel, private
- (4) Swimming pool, private



(i) *Development Standards.*

(1) Dimensional Requirements.

(a) Max. lot width (feet):	None
(b) Lot coverage:	None
(c) Min. front setback (feet):	See Vision 2020
(d) Min. rear setback (feet):	None *
(e) Min. interior side setback (feet):	None *
(f) Min. corner lot side setback (feet):	None
(g) Height (feet):	See note 2

\* For every foot of increased height of structures over twenty (20) feet, the developer shall provide additional interior side and rear yard setbacks at a 1:1 ratio where abutting a residential district.

Note 1: No front setback from the street right-of-way is required. However, buildings shall be set back a minimum of 10 feet to accommodate a 2-foot "step out zone", a 3-foot "furnishings lane" and 5-foot sidewalk. Setback shall be measured from the existing back of curb or from the proposed back of curb, if road improvements are planned. At a minimum, buildings shall be set back an additional two (2) feet to accommodate sidewalk cafes in front of restaurants and other commercial establishments where such seating is desired.

Note 2: The heights of all new buildings in the downtown area shall be no taller than the lesser of the following two tests:

a. Buildings within 300 feet of the river shall not exceed the height of a plane defined from a vertical benchmark, which is the elevation of the floor of Market Street [approximately four (4) feet, per USGS]. The height of the plane shall be thirty-five (35) feet above the defined benchmark height at the river edge, sloping up to 120 feet above the defined benchmark height at a distance of 300 feet from the river. (See diagram below)

b. Buildings within the downtown CBD Zone south of Market Street shall not exceed fifty (50) feet as measured above the highest adjacent sidewalk elevation; between Market Street and Red Cross Street, no building shall exceed 100 feet above the highest sidewalk elevation, and north of Red Cross Street, no building shall exceed 150 feet above the highest sidewalk elevation, except for properties along North Front Street where the provisions of the North Fourth Street Revitalization Plan Business District will apply.

(2) *Building height*

*Purpose:* In order to preserve the character of the downtown Central Business District, building height limits have been established in each of the three (3) areas identified in this section of the ordinance. This ordinance encourages development with provisions for periodic views of public trust waters at intervals along the river.

- a. Buildings constructed within 75 feet of the river's edge can have increased height above thirty-five (35) feet in all areas (with the exception of properties between Ann and Nun Streets) based on the following limitations. Buildings constructed along South Water Street in Area 1 of the CBD between Market Street and Ann Street may have increased height up to forty (40) feet within seventy-five (75) feet of the river's edge; Area 2 is allowed an increase up to fifty (50) feet within seventy-five (75) feet of the river's edge and; Area 3 is allowed an increase up to sixty (60) feet within seventy-five (75) feet from the river's edge. These increases in height are permitted along the river's edge when additional side yard is provided and/or when distance between multiple buildings on single lots is increased. The formulas for increases are as follows:

<b>Height of Building Above 35 Feet at River's Edge in the CBD</b>	<b>Additional Side Yard Requirements</b>
For properties constructed within seventy-five (75) feet of the river's edge in the CBD. Except in Area 3, this applies to existing lots of record at the time of the adoption of this ordinance.	3 linear feet for every 1 foot of increased height

- b. Height of building above height limits beyond 75' from river's edge in Areas 1--3.  
Building heights outside seventy-five (75) feet of the river's edge but within three hundred (300) feet of the river's edge, may be increased by up to twenty-five (25) percent above the height of the established plane, but may not exceed the maximum height in the zone and;
- c. Building heights outside three hundred (300) feet of the river's edge and outside the plane may be increased by up to twenty-five (25) percent above the maximum height in the zone.

Height increases will be allowed only in instances where one (1) or more of the following public benefits or features are provided:

<b>Public Benefit/Feature</b>	<b>Height Bonus</b>
Parking and circulation Parking sufficient for building use(s) as established in table 3.1 of the "Downtown Parking Facilities Plan" (see table 3.1)	1 foot in height/2 parking spaces
Public Amenities Public Urban Park	1 foot in height/100 sf of park area
Art gallery, public art, performing arts space (outdoor) (indoor)	1 foot in height/100 sf of park area 2 feet in height/100 sf of space
<b>Building Design</b> Stepped back construction above 4 stories. Stepped-back construction occurs when the facade above the fourth story is set back from the story below by a depth of no less than three feet. May be applied to multiple stories.	1.5 feet in height/1 foot of step-back
Street-level retail space	1 foot in height/100 sf of retail space
Upper floor office space	1 foot in height/100 sf of office space

<b>Land Use</b>	<b>Parking Spaces</b>
Retail	2.61 spaces per 1000 gross square feet
Industrial	0.63 spaces per 1000 gross square feet
Service	3.51 spaces per 1000 gross square feet
Restaurant/Entertainment	7.72 spaces per 1000 gross square feet
Office	2.64 spaces per 1000 gross square feet
Education	2.94 spaces per 1000 gross square feet
Residential	1.28 spaces per 1000 gross square feet
Mixed Use	2.77 spaces per 1000 gross square feet
Government	3.63 spaces per 1000 gross square feet
Hotel	0.85 spaces per guest room

(3) *Procedures for Height Increases Beyond 75' from River's Edge in Areas 1--3.*  
All proposed projects seeking increased height will be reviewed by staff of the City's development services department for compliance, and referred to the city technical review committee for approval. No building permit may be issued until a covenant guaranteeing performance has been executed.

(4) *Covenant.* To assure continuation of amenities and other public benefits built to qualify the project for bonus height allowance, the property owner must execute a covenant with the City. The covenant is required in consideration of the City's issuing a building permit allowing additional height beyond the height permitted in the zoning for the area.

(5) *Requirements.* The covenant must run with the land and be attached to the land. It must provide that in the event of the property owner's failure to abide by the covenant, the City is empowered to terminate occupancy of the structure and to obtain, in the name of the City, injunctive relief in a court of competent jurisdiction enjoining future occupancy of the structure while violation of the covenant exists. All covenants must be approved as to form by the city attorney and be recorded in the appropriate records of the county in which the property is located. Covenants must be recorded prior to issuance of any building permit and must specify that the owner will comply with all approved conditions, conditions listed for approval of the applicable bonus provision, and the provisions of this section.

(6) *Enforcement for Height Increases in Areas 1--3.* In order for a certificate of occupancy to be issued at completion of the building, all requirements of the height bonus must be completed, and certified by the City's Code enforcement officer. In addition to the initial approval, all conditions for which the bonus was approved must remain permanently in effect. Urban parks, public parking areas and other public spaces must be available to the general public during regular hours. A permanent sign with a surface area of not less than two (2) square feet, stating that the space is open to the general public, shall be displayed in a prominent location on any public space for which a bonus is granted.

(7) *Replacement of Public Benefit Features.* A public amenity or benefit feature may only be diminished or discontinued if the feature is replaced by another approved benefit feature of at least equivalent size or value. Approval of the replacement feature will be by the City.

Where a bonus is granted for the inclusion of retail or office uses in a building, the following shall apply: In the event that the occupant or operator of one (1) of the public benefit features above moves out of a structure, the owner shall have a maximum of twelve (12) months after the space is vacated to replace the use with another one which meets the provisions under which the bonus was granted. If any portion of the space is not reoccupied with an approved use, another public benefit feature with equal bonus value may be substituted if approved by the City.

(8) *Maintenance.* The building owner, lessee, management entity or authorized agent are jointly and severally responsible for the maintenance of any public parks, parking facilities or other public facilities for which a bonus has been granted. These maintenance responsibilities include, but are not limited to litter control and care and replacement of trees, shrubs and furniture. Any person violating the provisions of this ordinance shall be subject to the penalties set forth in Article 3.

(9) *Measurement.* The vertical distance from average grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of roofs having a pitch of more than one (1) foot in four and one-half (4 1/2) feet.

- a. Height of a building in stories does not include basements and cellars, except as specifically provided otherwise.

(10) *Building height limitations.*

- a. *Building height purpose:* The effect of these limits will be to ensure that new buildings step back from the river, to a height that approximates the historic or desired height within the designated area. The formula described herein is applied for purposes of establishing heights intended to create a tiering effect from the river's edge eastward.
- b. *Building height by area.* The central business district is divided into three (3) areas when considering height and density. The three areas with different height limitations for each area are as follows: Area 1 is from the river's edge east to Third Street and south of Market Street to the end of the CBD zoning district, Area 2 is from the river's edge east to Third Street and from Market Street to the southern line of Red Cross Street and, Area 3 is from the river's edge on the west and from the northern line of Red Cross Street on the south to the end of the CBD zoning district. See areas one through three under Building Height Test below.
- c. *Building height test.* The maximum heights of all new buildings in the downtown area shall be the lesser of the following:
  1. Buildings within three hundred (300) feet of the river shall not exceed the height of a plane beginning at thirty-five (35) feet above ground elevation at river's edge, as existing at the time of the adoption of this ordinance, and sloping up to one hundred twenty (120) feet at a distance of three hundred (300) feet from the river's edge. Buildings built within seventy-five (75) feet of the river's edge shall be limited to a height of thirty-five (35) feet (unless the development meets the standards for increase in section 19-39(c)(1) of this ordinance). The "river's edge" shall be defined as the normal water level measured from the water's edge to the proposed building elevation closest to the river. "Normal water level" is established by a field representative from the division of coastal management or by a New Hanover County Zoning Officer when an application for a CAMA permit has been submitted.
  2. Buildings within Area 1, south of Market Street to the end of the CBD, shall not exceed fifty (50) feet as measured above the highest adjacent sidewalk elevation; in Area 2, between Market Street and Red Cross Street, no building shall exceed one hundred (100) feet above the highest adjacent sidewalk elevation and; Area 3, north of Red Cross Street to the end of the CBD, no building shall exceed one hundred fifty (150) feet above the highest adjacent sidewalk elevation.

(11) *Building Height Areas.*

Area 1: From the river's edge to the eastern boundary of the CBD and from the southern line of Market Street to the southern end of the CBD zoning district.

- A maximum height of thirty-five (35) feet above the existing ground elevation (as defined at the time of the adoption of this ordinance) within seventy-five (75) feet from the river's edge, to a maximum height of fifty (50) feet above the highest adjacent sidewalk elevation. Development between Ann and Nun Streets along South Water Street shall have a maximum height limitation of thirty-five (35) feet.

Area 2: From the river's edge to the eastern boundary of the CBD and from the northern line of Market Street to the southern line of Red Cross Street

- A maximum height of thirty-five (35) feet above the existing ground elevation within seventy-five (75) feet from the river's edge to a maximum height of one hundred (100) feet above the highest adjacent sidewalk elevation.

Area 3: From the river's edge on the west and from the northern line of Red Cross Street on the south to the end of the CBD zoning district.

- A maximum height of thirty-five (35) feet above the existing ground elevation within seventy-five (75) feet from the river's edge, to a maximum height of one hundred fifty (150) feet above the highest adjacent sidewalk elevation.

In all zones:

- The maximum height of a building lying on a plane established as thirty-five (35) feet above the existing ground elevation at the time of the adoption of this ordinance at the river's edge and one hundred twenty (120) feet above that same elevation at three hundred (300) feet from the river's edge, shall be determined by measuring the site's distance from the river's edge. Regulations relating to building heights at the river's edge shall be defined as applying to buildings lying within seventy-five (75) feet landward of normal water level. All structures built within seventy-five (75) feet of the river's edge have a thirty-five (35) foot height limitation above the existing ground elevation. All other sites shall have heights established by determining the linear distance of the closest building elevation to the river's edge and applying the following equation. The distance per foot from the river's edge shall be multiplied by 0.285 and then add thirty-five (35) to that sum ( $\text{distance} \times 0.285 = H$ , then  $H + 35 = \text{maximum building height}$ ). In no case however, shall a building exceed the height of the established plane (120 feet at three hundred (300) feet from the river's edge) or the maximum allowed height in the area.
- For waterfront development with an undulating river line, define a building's distance from the river's edge as the average obtained by measuring from the river's edge (as defined above) to each corner of the building elevation that is parallel to the river.
- The height will be measured from the existing ground elevation at the time of the adoption of this ordinance, to the highest pitch of the roof. Any uninhabitable spaces on top of the roof, such as bell towers, finials, cupolas, etc. are permitted as long as they do not exceed twenty (20) percent of the length of the roof line along the street.

**Sec. 18-197. CS, Commercial Services District.**

(a) *Purpose.* This district is established to accommodate a mixture of light manufacturing, wholesale, storage, commercial service and repair, and distributive business type uses. It functions as a supportive district to surrounding intensive industrial and commercial uses. The district is designed to locate near major transportation facilities (road, rail, air and port) and act as a transitional land use between intensive industrial and commercial development, and office and residential areas.

(b) *Site lighting.* All new construction where exterior site lighting is provided shall observe the following limitations as to height:

- (1) Unrestricted lighting--Ten (10) feet.
- (2) 90-degree cutoff lighting--Fifteen (15) feet.

In no case shall site lighting for new construction be located or installed so as to shine directly onto residential premises.

(c) *Uses Permitted by Right.* The following uses are permitted by right in the commercial services district, provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

- (1) Amusement and recreation services, indoor
- (2) Artists, commercial including silk screening
- (3) Assembly hall
- (4) Automobile and truck dealers, new and used
- (5) Automobile care center
- (6) Automobile parts and supply store
- (7) Automobile renting and leasing
- (8) Automobile repair shops
- (9) Automotive services, except repair and towing
- (10) Banking services
- (11) Building material dealers
- (12) Bus and taxi service
- (13) Business services
- (14) Candy and other confectionery products, manufacturing and warehousing
- (15) Carpet and upholstery cleaners (on customers premises)
- (16) Chimney and furnace cleaning
- (17) Clothing and other finished fabric products
- (18) Contractor's office
- (19) Contractor's storage lots
- (20) Contractor's equipment and supply dealers and service
- (21) Convenience food stores
- (22) Divers, commercial
- (23) Drive-in theater
- (24) Electric motor repair shop
- (25) Electrical and electronic machinery, equipment and supplies

- (26) Exterminating services-dwellings and other buildings
- (27) Fabricated metal products, except boiler shops, machinery and transportation products, metal coating, engraving, and allied services, metal forgings screw machine products, steel, wire, and pipe structural metal products, and ordinance
- (28) Fishing, commercial
- (29) Furniture store
- (30) Gun sales, including repair
- (31) Janitor services
- (32) Launderers, industrial
- (33) Leather and leather products, excluding tanning
- (34) Liquor stores
- (35) Lumber and wood products, except furniture
- (36) Manufactured housing dealers
- (37) Marinas
- (38) Measuring, analyzing and controlling instruments; photographic, medical and optical goods; watches and clocks
- (39) Medical offices
- (40) Motion pictures production and distribution
- (41) Motorcycle dealers
- (42) Movers, van lines and storage
- (43) Movie theaters, except drive-in
- (44) Night clubs, not contained in restaurants, motels or similar business
- (45) Offices, professional
- (46) Package delivery services, commercial
- (47) Parks and recreation areas, municipal
- (48) Personal services
- (49) Post office
- (50) Railroad facilities, including passenger and freight stations outside of railroad rights-of-way
- (51) Recreational vehicles and utility trailer dealers
- (52) Repair shops
- (53) Research and development laboratories
- (54) Restaurant, fast food-carry out
- (55) Restaurant, standard (sit-down)
- (56) Retail sales establishments
- (57) Sales office, off premise, not retail
- (58) Schools, trade, correspondence and vocational schools
- (59) Ship chandlers
- (60) Shipping brokers, freight and cargo, without storage
- (61) Small engine repair, except automotive
- (62) Upholstery and furniture repair
- (63) Used merchandise store, except automotive goods
- (64) Veterinary services with enclosed pens
- (65) Veterinary services with open pens



- (66) Water transportation
- (67) Welding, repair

(d) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Auxiliary uses and wares
- (2) Bowling alleys and pool halls
- (3) Commercial parking lots
- (4) Communication facilities, including radio and TV stations, cellular telephone facilities, towers, etc
- (5) Contractor's storage yard
- (6) Contractors, special trades-electricians, plumbers, etc. with open storage of materials
- (7) Furniture and other home furnishings store
- (8) Governmental uses outside public rights-of-way
- (9) Group home supportive, large
- (10) Group home supportive, medium
- (11) Kennel, commercial boarders and breeders
- (12) Mini-warehousing
- (13) Mixed use buildings
- (14) Religious institutions
- (15) Residential unit contained within a primary use
- (16) Service stations
- (17) Shopping center
- (18) Skating rink, roller and ice
- (19) Telecommunication facility, unattended
- (20) Tire dealers and service
- (21) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc
- (22) Warehousing, general
- (23) Wholesale trade

(e) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Group day facility
- (2) Group home residential
- (3) Group home supportive, small

(f) *Permitted Accessory Uses.* Accessory uses clearly incidental and subordinate to the principal use and structures including the following uses, are permitted

provided that they meet all requirements of this section, the requirements of Article VI and all other applicable requirements established in these regulations.

(1) Internal services facilities incidental to permitted uses, including cafeterias, day care facilities, snack bars, and similar retail activities, conducted solely for the convenience of employees, or occasional visitors, provided any signage for such facilities is not visible beyond the premises

*(g) Development Standards.*

(1) Dimensional Requirements.

(a) Min. lot area (square feet)	7500
(b) Min. lot width (feet)	65
(c) Max. lot coverage	NA
(d) Min. front setback (feet)	35
(e) Min. rear setback (feet)	15 (b)(d)
(f) Min. interior side setback	7 (c)(d)
(g) Min. corner lot side setback	35
(h) Height (feet)	35+ (a)

- (a) See subsection (f)(2) below for increased building height allowances to a maximum of ninety-six (96) feet.
- (b) When abutting a residential district, the minimum rear setback shall be twenty-five (25) feet.
- (c) When abutting a residential district, the minimum interior side setback shall be twenty (20) feet.
- (d) For every foot of increased height of structures over twenty (20) feet, the developer shall provide additional interior side and rear yard setbacks at a 1:1 ratio where abutting a residential district.
- 

(2) Building height. Building height may be increased when additional side and rear yards are provided in accordance with the following standards. The maximum height of any building, shall be ninety-six (96) feet. The formulas for increases are as follows:

Height of Building Above 35 Feet	Additional Yard Requirements for Districts Noted by 35+ (a)
First 10 feet above 35 feet	4 feet for each 10 foot increment, or portion thereof
10.1 to 30 feet above 35 feet	6 feet for each 10 foot increment
30.1 or more above 35 feet	8 feet for each 10 foot increment

**Sec. 18-198. LI, Light Industrial District**

(a) *Purpose.* The Light Industrial District is established to provide areas for office, distribution, warehousing, storage, and light industrial uses in accordance with adopted plans and policies. Light industries are generally characterized as industries with small physical plants and high worker-to-land ratios. Retail uses intended to serve the development are also permitted. The district is designed to be located in areas adequately served by public or private utilities, and near major transportation facilities (road, rail, air, and/or port) to ensure adequate access to its uses which, in turn, will discourage additional traffic generation on nearby residential streets. It should be located for satisfactory integration of the district into the surrounding area, not in a manner that adversely impacts existing or planned non-industrial uses.

(b) *Uses Permitted by Right.* The following uses are permitted by right in the light industrial district, provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

- (1) Airport services
- (2) Automobile care center
- (3) Automotive services, except repair and towing
- (4) Boat building and repair
- (5) Building material dealers
- (6) Bus and taxi service
- (7) Business services
- (8) Contractor' office
- (9) Contractor's storage lot
- (10) Contractors' equipment and supply dealers and service
- (11) Divers, commercial
- (12) Electric motor repair
- (13) Electrical and electronic machinery, equipment and supplies
- (14) Fabricated metal products except boiler shops; machinery and transportation products; metal coating; engraving; and allied services; metal forgings screw machine products; steel, wire, and pipe structural metal products; and ordnance
- (15) Fiber optics
- (16) Fishing, commercial
- (17) Fuel and ice dealers
- (18) Garbage collection, private
- (19) Gas companies
- (20) Launderers, industrial
- (21) Manufactured housing
- (22) Manufacturing and distributing industries except boiler shops; chemical; creosote; fats and oils; machinery; meat products (slaughterhouses); ordnance, paper; petroleum; primary metals; steel, wire, pipe structural metal products; stone and cement products; tires; and tobacco products

- (23) Marina
- (24) Measuring, analyzing and controlling instruments; photographic, medical and optical goods; watches and clocks
- (25) Metal coating, engraving and allied services
- (26) Motor freight companies
- (27) Movers, van lines and storage
- (28) Offices, professional
- (29) Package delivery services, commercial
- (30) Parks and recreation areas, municipal
- (31) Pipe lines, except natural gas
- (32) Post office
- (33) Railroad facilities, including passenger and freight stations outside of railroad rights-of-way
- (34) Refrigeration, heating and air conditioning machinery
- (35) Research and development laboratories
- (36) Restaurant, fast-food carry-out
- (37) Restaurant, standard
- (38) Ship chandlers
- (39) Shipping brokers, freight and cargo
- (40) Small engine repair
- (41) Transportation equipment autos, boats, etc.
- (42) Veterinary services with enclosed pens
- (43) Veterinary services with open pens
- (44) Water transportation
- (45) Welding, repair

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Adult establishments
- (2) Automobile repair shops
- (3) Auxiliary uses and wares
- (4) Commercial parking lots
- (5) Communication facilities, including radio and television stations, cellular telephone facilities, towers, etc.
- (6) Contractor's storage yard
- (7) Contractors, building residential construction with open storage of materials,
- (8) Governmental uses outside public rights-of-way, except offices
- (9) Kennel, commercial boarders and breeders
- (10) Mini-warehousing
- (11) Motion pictures production and distribution
- (12) Residential unit contained within a principal use
- (13) Service stations
- (14) Telecommunication facility, unattended

- (15) Tire dealers and service
- (16) Towing services, automobile and truck
- (17) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc
- (18) Warehousing, general
- (19) Wholesale trade

(d) *Permitted Accessory Uses.* Accessory uses clearly incidental and subordinate to the principal use are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Internal services facilities incidental to permitted uses, including cafeterias, day care facilities, snack bars, and similar retail activities, conducted solely for the convenience of employees, or occasional visitors, provided any signage for such facilities is not visible beyond the premises

(e) *Development Standards.*

(1) Dimensional Requirements.

(a) Min.lot area (square feet)	None
(b) Min. lot width (feet)	None
(c) Max. lot coverage	NA
(d) Min. front setback (feet)	50
(e) Min. rear setback (feet)	0 or 35 (b)(d)
(f) Min. interior side setback (feet)	0 or 20 (c)(d)
(g) Min. corner lot side setback (feet)	50
(h) Height (feet)	35+ (a)

Notes:

- (a) See subsection (f)(2) below for increased building height allowances to a maximum of ninety-six (96) feet.
- (b) When abutting a street or residential use, the minimum rear setback shall be thirty-five (35) feet.
- (c) When abutting a residential use, the minimum interior side setback shall be twenty (20) feet.
- (d) For every foot of increased height of structures over twenty (20) feet, the developer shall provide additional interior side and rear yard setbacks at a 1:1 ratio where abutting a residential district.

---

(2) Building height. Building height may be increased when additional side and rear yards are provided in accordance with the following standards. The maximum height of any building, shall be ninety-six (96) feet. The formulas for increases are as follows:

<b>Height of Building Above 35 Feet</b>	<b>Additional Yard Requirements for Districts Noted by 35+ (a)</b>
First 10 feet above 35 feet	4 feet for each 10 foot increment, or portion thereof
10.1 to 30 feet above 35 feet	6 feet for each 10 foot increment
30.1 or more above 35 feet	8 feet for each 10 foot increment

**Sec. 18-199. IND, Industrial District**

(a) *Purpose.* The Industrial District is established to accommodate basic industries and other uses that produce noise, odor, smoke, dust, air borne debris, and other impacts that might be detrimental to the health, safety, and welfare of surrounding uses and neighborhoods in accordance with adopted plans and policies. The district is designed to be located near major transportation facilities (road, rail, air and/or port) and in areas adequately served by public or private utilities. It should not be located in a manner that adversely affects existing or planned non-industrial uses.

(b) *Uses Permitted by Right.* The following uses are permitted by right in the Industrial District (IND), provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

- (1) Airport services
- (2) Automobile care center
- (3) Automobile repair shops
- (4) Automotive services, except repair and towing service
- (5) Boat building and repair
- (6) Boiler shops
- (7) Building material dealers
- (8) Bus and taxi service
- (9) Business services
- (10) Chemicals and allied products except acids, gases, and glues
- (11) Coal transfer facility
- (12) Contractors' offices
- (13) Contractors' storage lot
- (14) Contractors' equipment and supply dealers and service
- (15) Creosote treatment
- (16) Divers, commercial
- (17) Electric motor repair shop
- (18) Electrical and electronic machinery, equipment and supplies
- (19) Fabricated metal products, except boiler shops; machinery and transportation products; metal coating; engraving; and allied services; metal forgings screw machine products; steel, wire, and pipe structural metal products; and ordinance
- (20) Fats and oils
- (21) Fiber optics
- (22) Fishing, commercial
- (23) Fuel and ice dealers
- (24) Garbage collection, private
- (25) Gas companies
- (26) Launders, industrial
- (27) Manufactured housing

- (28) Manufacturing industries, except petroleum, natural gas, electrical machinery, pulp and paper products and ordnance
- (29) Measuring, analyzing and controlling instruments; photographic, medical and optical goods; watches and clocks
- (30) Meat products, processing, except stockyards or slaughterhouses
- (31) Metal coating, engraving and allied services
- (32) Metal forgings and stampings
- (33) Mini-warehousing
- (34) Motion pictures production and distribution
- (35) Motor freight companies
- (36) Movers, van lines and storage
- (37) Offices, professional
- (38) Package delivery services, commercial
- (39) Parks and recreation areas, municipal
- (40) Pipe lines, except natural gas
- (41) Post office
- (42) Railroad facilities, including passenger and freight stations outside of railroad rights-of-way
- (43) Refrigeration, heating and air conditioning machinery
- (44) Research and development laboratories
- (45) Restaurant, fast food-carry out
- (46) Saw mills and planing mills
- (47) Ship chandler
- (48) Shipping brokers, freight and cargo
- (49) Small engine repair
- (50) Stone, clay, glass and concrete products, except cement, lime, gypsum and plaster of paris
- (51) Tobacco products
- (52) Transportation equipment autos, boats, etc.
- (53) Veterinary services with enclosed pens
- (54) Veterinary services with open pens
- (55) Water transportation
- (56) Welding, repair

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- (1) Adult establishments
- (2) Auxiliary uses and wares
- (3) Commercial parking lots
- (4) Communication facilities, including radio and television stations, cellular telephone facilities, towers, etc.
- (5) Contractors, building residential construction with open storage of materials,
- (6) Contractors, special trades-electricians, plumbers, etc. with open storage of materials



- (7) Governmental uses outside public rights-of-way, except offices
- (8) Kennel, commercial boarders and breeders
- (9) Residential unit contained within a principal use
- (10) Service stations
- (11) Telecommunication facility, unattended
- (12) Tire dealers and service
- (13) Towing services, automobile and truck
- (14) Utility stations and plants outside public rights-of-way (public and private)  
including lift stations, substations, pump stations, etc
- (15) Warehousing, general
- (16) Wholesale trade

(d) *Permitted by Special Use Permit.* The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

(1) Ordinance uses

(e) *Permitted Accessory Uses.* Accessory uses clearly incidental and subordinate to the principal use are permitted provided that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Internal services facilities incidental to permitted uses, including cafeterias, day care facilities, snack bars, and similar retail activities, conducted solely for the convenience of employees, or occasional visitors, provided any signage for such facilities is not visible beyond the premises
- (2) Petroleum refining and related industries
- (3) Petroleum storage, accessory to a permitted principal use or building
- (4) Petroleum storage, underground, accessory to permitted automotive stations

(f) *Industrial Development Standards.*

(1) Dimensional Requirements.

(a) Min. lot area (square feet)	None
(b) Min. lot width (feet)	None
(c) Max. lot coverage	NA
(d) Min. front setback (feet)	50
(e) Min. rear setback (feet)	0 (b)(d)
(f) Min. interior side setback (feet)	0 (c)(d)
(g) Min. corner lot side setback (feet)	50
(h) Height (feet)	35+ (a)

Notes:

(a) See subsection (f)(2) below for building height allowances to a maximum of ninety-six (96) feet.

- (b) When abutting a street or residential use, the minimum rear setback shall be fifty (50) feet.  
(c) When abutting a residential use, the minimum interior side setback shall be ten (10) feet.  
(d) For every foot of increased height of structures over twenty (20) feet, the developer shall provide additional interior side and rear yard setbacks at a 1:1 ratio where abutting a residential district.
- 

(2) Building height. Building height may be increased when additional side and rear yards are provided in accordance with the following standards. The maximum height of any building shall be ninety-six (96) feet. The formulas for increases are as follows:

<b>Height of Building Above 35 Feet</b>	<b>Additional Yard Requirements for Districts Noted by 35+ (a)</b>
First 10 feet above 35 feet	4 feet for each 10 foot increment, or portion thereof
10.1 to 30 feet above 35 feet	6 feet for each 10 foot increment
30.1 or more above 35 feet	8 feet for each 10 foot increment

**Sec. 18-200. AI, Airport Industrial District.**

(a) *Purpose.* This district is established as a restricted industrial district in which the principal use of land is for intensive and extensive commercial and/or industrial operations that are compatible with airport facilities. It is designed to provide sites adjacent to railroads and/or major thoroughfares, as well as sites with airport access. The district is intended to protect and promote the public utility of the airport by encouraging compatible land uses to locate proximate to it. It is also intended to promote the health, safety and welfare of area residents by preventing the creation of hazards to the airport, thereby protecting the lives and property of the users of the airport and occupants in the vicinity. The restriction of uses also serves to prevent the destruction or impairment of the utility of the airport and the public investment therein.

(b) *Lot Size* One (1) acre minimum lot size.

(c) *Access.* To protect and promote existing or future residential development, any means of direct access to or from any permitted or special use in the AI, Airport Industrial District shall not be through any residentially zoned or developed area or along any street or road in any residential subdivision. If it can be demonstrated that undue hardship will exist if this provision is strictly enforced, the zoning board of adjustment may grant a variance in accordance with Article 2 of this chapter.

(d) *Special requirements.* The table below presents the requirements which shall be met for specified hazards generated.

<b>Hazards Generated</b>	<b>Requirements and/or Standards</b>
Dirt, dust, fly ash, and particulate matter	Environmental Protection Agency (EPA) emission levels
	Federal Aviation and Administration (FAA) visual hazards
Glare and heat	Activities shall be within an enclosure and shall be imperceptible beyond the property without instruments.
Lighting	Pulsating, flashing, oscillating or other types of attention-getting device are prohibited. Lighting devices, such as flood lights and spot lights shall be so arranged or shielded as not to cast illumination in an upward direction above an imaginary line extended from a light source parallel to the ground.
Noise	EPA decibel levels
	Occupational Health and Safety Administration standards
Odor	EPA standards
Radio and electronic emissions	Federal Communications Commission (FCC) license or authority for operation. FCC and FAA requirements apply to use.

Toxic gases	EPA emission levels
Radiation	Federal Radiation Council standards

(e) *Uses Permitted by Right.* The following uses are permitted by right in the Airport Industrial District (AI), provided that they meet all requirements of this section and all other applicable requirements established in these regulations:

- (1) Airport services
- (2) Automobile and truck dealers, new and used
- (3) Automobile parts and supply store
- (4) Automobile renting and leasing
- (5) Boat dealers, including repairs
- (6) Building material dealers
- (7) Bus and taxi service
- (8) Business services
- (9) Contractors' storage lot
- (10) Contractors' equipment and supply dealers and service
- (11) Convenience food stores
- (12) Divers, commercial
- (13) Electric motor repair shop
- (14) Electrical and electronic machinery, equipment and supplies
- (15) Fabricated metal products, except boiler shops; machinery and transportation products; metal coating; engraving and allied services; metal forgings; screw machine products; steel, wire, and pipe structural metal products; and ordinance
- (16) Fishing, commercial
- (17) Food, except stockyards or slaughterhouses
- (18) Fruit and vegetable market, wholesale with incidental retail
- (19) Garbage collection, private
- (20) Launderers, industrial
- (21) Manufactured housing
- (22) Manufactured housing dealers
- (23) Manufacturing industries, except boiler shops; chemical; creosote; fats & oils; machinery; meat products (slaughterhouses); ordnance; paper and pulp products; petroleum; primary metals; steel, wire and pipe structural metal products; stone and cement products; tires; tobacco products; and furniture.
- (24) Measuring, analyzing and controlling instruments; photographic, medical, and optical goods; watches and clocks
- (25) Motels and hotels
- (26) Motion pictures production and distribution
- (27) Motor freight companies
- (28) Motorcycle dealers
- (29) Movers, van lines and storage
- (30) Offices, professional

- (31) Parks and recreation areas, municipal
- (32) Pipelines, except natural gas
- (33) Post office
- (34) Railroad facilities, including passenger and freight stations outside of railroad rights-of-way
- (35) Recreational vehicles and utility trailer dealers
- (36) Refrigeration, heating and air conditioning machinery
- (37) Research and development laboratories
- (38) Restaurant, fast food-carry out
- (39) Shipping brokers, freight and cargo
- (40) Small engine repairs, except automotive
- (41) Transportation equipment; autos, boats, etc.
- (42) Veterinary services with enclosed pens
- (43) Veterinary services with open pens
- (44) Water transportation
- (45) Welding, repair

(f) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this, Article 6, and all other applicable requirements established in these regulations.

- (1) Automobile repair shops, including towing
- (2) Automobile services
- (3) Auxiliary uses and wares
- (4) Commercial parking lots
- (5) Communication facilities; including radio and television stations, cellular telephone facilities, towers, etc.,
- (6) Contractors, building residential construction with open storage of materials,
- (7) Contractors, special trades-electricians, plumbers, etc. with open storage of materials
- (8) Governmental uses outside public rights-of-way, except offices
- (9) Kennel, commercial boarders and breeders
- (10) Mini-warehousing
- (11) Residential unit contained within a primary use
- (12) Schools, specialty training
- (13) Service stations
- (14) Telecommunication facility, unattended
- (15) Tire dealers and service
- (16) Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc
- (17) Warehousing, general
- (18) Wholesale trade

(g) *Permitted Accessory Uses.* Accessory uses clearly incidental and subordinate to the principal use including the following uses are permitted provided

that they meet all requirements of this section, the requirements of Article 6 and all other applicable requirements established in these regulations.

- (1) Internal services facilities incidental to permitted uses, including cafeterias, day care facilities, snack bars, and similar retail activities, conducted solely for the convenience of employees, or occasional visitors, provided any signage for such facilities is not visible beyond the premises

*(h) Development Standards.*

(1) Dimensional requirements.

(a) Min. lot area (square feet)	43,560
(b) Min. lot width (feet)	None
(c) Max. lot coverage	None
(d) Min. front setback (feet)	50
(e) Min. rear setback (feet)	20 (a)
(f) Min. side setback (feet)	20 (a)
(g) Min. corner lot side setback (feet)	50
(h) Height (feet)	Airport Zoning Ord.

Notes:

(a) For every foot of increased height of structures over twenty (20) feet, the developer shall provide additional interior side and rear yard setbacks at a 1:1 ratio where abutting a residential district.

**Sec. 18-201. CEM, Cemetery District.**

(a) *Purpose.* This district allows more control over the placement of cemetery activities within the City and ensures the compatibility of the cemetery with the surrounding land uses, thereby protecting the health, safety and general welfare of the City residents.

(b) *Density.* None.

(c) *Uses.* Any building and land may be used for the permanent internment of one (1) or more dead human bodies or cremated remains, in addition to any accessory buildings and uses customarily incidental to the operation and maintenance of a cemetery.

(d) *Development Standards.*

(1) Dimensional requirements.

(a) Min. lot area (square feet)	None
(b) Min. lot width (feet)	None
(c) Max. lot coverage	None
(d) Min. front setback (feet)	30 (a)
(e) Min. rear setback (feet)	25 (a)
(f) Min. side setback (feet)	10 (a)
(g) Min. side setback (corner lot) (feet)	30 (a)
(h) Height (feet)	35.

Notes:

(a) Applies to a building fronting a street.

---

**Secs. 18-202. through 18-210. Reserved.**

## DIVISION III. OVERLAY DISTRICTS

### **Sec. 18-211. FP, Flood Plain-Overlay District.**

(a) *Purpose.* The purpose for identifying this area on the zoning map is to alert all persons concerned to the fact that development within designated floodplains must conform to the adopted ordinance entitled "The Flood Plain Management Regulations of the City of Wilmington," as amended. It is the intent of the council of the City of Wilmington to promote the public health, safety and general welfare with measures designed to minimize private and public losses of life, property, commerce and services from the hazards of floods through the enforcement of the above-referenced ordinance.

(b) *District provisions.* The Flood Plain-Overlay is established as a district which overlaps other zoning districts established by this chapter. The extent and boundaries of the Flood Plain-Overlay district shall be delineated on the official zoning map of the City of Wilmington, but final determination shall be identified from the flood hazard boundary maps (FPBM), No. 370171-0001A and No. 370171-0002A, dated April 17, 1978 and any subsequent revisions thereto; or from "The Flood Insurance Study for the City of Wilmington, North Carolina," dated April 17, 1978, with accompanying flood insurance rate maps, and flood boundary and special flood hazard maps and any subsequent revisions thereto. While the Flood Plain-Overlay District may overlap any zoning district classification, or any portion thereof, established by this Chapter, the land use provisions of the underlying district shall prevail in the development of any property within such district; provided, the provisions of the above-referenced "Flood Plain Management Regulations of the City of Wilmington" are adhered to in any construction, reconstruction and alteration to the land and/or structures within this district.



**Sec. 18-212. SHOD, Special Highway Overlay District.**

(a) *Purpose.* The purpose of the Special Highway Overlay District (SHOD) is to protect the natural beauty and scenic vista that exists along interstate highways and other specifically designated roadways that serve as major accesses and gateways into the City of Wilmington. Protection of these roadways is important and necessary to maintain and preserve the undisturbed roadsides that are characterized by their natural woodlands and open spaces. The continued protection of these scenic highways is also a valuable asset to the tourism economy and enhances the attractiveness of the area for trade and investment.

The Special Highway Overlay District shall be in addition to any other zoning districts where applied so that any parcel of land lying in a SHOD may also lie in one (1) or more of the zoning districts provided for by this ordinance. The development of all uses permitted by right or by special use permit in the underlying district, if any, shall be subject to the requirements of both the SHOD and the underlying zoning district. In the event the SHOD requirements conflict with the underlying district requirements, the requirements of the SHOD shall take precedence. If specified by the underlying district, the requirements of the underlying district shall be followed.

(b) *Applicability.* It is hereby required that all nonresidential structures, buildings and improvements to property located within the SHOD comply with the following regulations. Access roads, utility (communications, gas, electrical, sanitary services) structures and governmental structures are exempt from the requirements. The procedures for establishing a SHOD district zoning shall be the same as those for establishing or amending any other zoning district. For the purposes of this section, the SHOD is defined as all property fronting on the portions of the following streets, roads or highways as shown on the City's official zoning maps:

Eastwood Road

Military Cutoff Road

The SHOD regulations applicable to the following roadway shall be limited to Sec. 18-212. SHOD, Special Highway Overlay District.(h), Signs:

Martin Luther King Jr. Parkway

(c) *Setback requirements.* All nonresidential buildings and accessory uses shall be set back no less than one hundred (100) feet from the right-of-way of the designated highway. No building shall be located less than twenty-five (25) feet from any property line. However, the setback may be reduced for those buildings, accessory uses and off-street parking by a maximum of twenty-five (25) percent if the project provides additional plantings along the right-of-way. At a minimum, these plantings shall consist of one (1) deciduous or evergreen tree of at least three-inch caliper for every forty (40) feet of road frontage. These streetscape trees must be selected and planted in accordance with Article 8 of this chapter. Plantings must be located in the first ten (10) feet of land adjacent to and parallel to the right-of-way except that plantings may be moved outside this area if it is determined that overhead power lines would interfere with the tree's natural growth.

(d) *Enclosed facilities.* All manufacturing, offices, wholesaling, retail sales, and related storage shall be conducted within an enclosed building, except that the display

of automobiles and/or boats in the front, side or rear yard areas may be permitted provided the minimum setback applicable to parking lots is met and all other side and rear setbacks are met. If the storage and/or display of boats and autos are adjacent to residentially zoned property occupied by a residential use or a platted residential lot, then storage or display shall be screened from view of the residential use on lot.

(e) *Outside storage.* Outside storage can be permitted if it is located directly to the rear of the principal building and is not visible from any location along the designated highway. The outside storage area shall not occupy an area wider than the principal building or larger than one-half (1/2) the area of the principal building. The outside storage area must be screened with a buffer strip in accordance with Article 8, Division VII. No storage shall be permitted above the height of the screen. Junkyards and scrap processors shall not be permitted.

(f) *Parking and loading.*

(1) Parking and loading shall be provided in accordance with the provisions set forth in Article 9. All loading shall be from the side or rear of the principal structure as viewed from the designated highway. If loading is performed on the side of the building, as viewed from the designated highway, a planted buffer strip in accordance with Article 8, Division VII of this chapter shall be provided.

(2) No vehicular or equipment parking except automobile parking shall be permitted in the yard area adjacent to the designated highway. All automobile parking shall be set back at least one hundred (100) feet from the right-of-way of the designated highway if such highway is an interstate or thoroughfare with controlled access. Other U.S. and N.C. numbered highways shall require a fifty-foot setback for automobile parking.

(g) *Lot coverage.* The total ground area covered by principal buildings and all accessory buildings shall not exceed fifty (50) percent of the site.

(h) *Signs.* Signs shall be in accordance with the sign ordinance except that only one (1) freestanding sign not to exceed six (6) feet in height and a maximum surface area of one hundred and fifty (150) square feet may be permitted within the one hundred (100) foot setback. No outdoor advertising signs shall be permitted.

**Sec. 18-213. CO, Corridor Overlay Districts.**

(a) *Purpose.* The Corridor Overlay Districts are established to provide a series of overlapping regulations for particular roadway corridor areas in addition to those provided by the other zoning districts established by this Article. The purpose for establishing these Corridor Overlay Districts is first, to recognize the importance that different roadway corridor areas play in defining the City's character as city entryways and/or significant cultural or historic thoroughfares; second, to protect and preserve both the aesthetics of these important roadways and their traffic handling capabilities through the application of site-specific land use planning principles and procedures; and third, to satisfy the policies and objectives of the South 17th Street and Land Use Plan Update, thereby contributing to the general welfare of the City of Wilmington.

**Sec. 18-213.1 Dawson-Wooster Corridor Regulations**

In addition to the general and specific regulations imposed by this chapter on the use of non-residentially-zoned land within the Dawson-Wooster Corridor (defined herein as all property located between Queen Street to the north, Ninth Street to the east, Wright Street to the south, and Front Street to the west), the following regulations shall apply.

(a) For new commercial development which abuts residentially-zoned property, the following buffering standards are required:

(1) The minimum buffer shall consist of a seven foot wide buffer strip, containing a six-foot tall solid fence as one (1) row of the required two (2) row buffer.

(2) Where the size of the commercial development warrants additional buffering under the provisions of the Zoning Ordinance the added buffering shall be provided in a buffer strip of at least ten (10) feet in width (or larger if specified in the Zoning Ordinance or so determined by the City Manager); one row of this buffer shall be a six foot tall solid fence.

(b) For all new commercial development in the corridor, the following lighting standards shall be observed:

(1) No site-lighting poles or structures shall exceed ten (10) feet in height.

(2) All lighting fixtures shall be designed to avoid direct or indirect lighting of any area off the site on which the lighting fixture is located.

(c) In the CB District portions of the corridor:

(1) The following land uses permitted shall be prohibited in the Corridor Overlay:

(a) Automotive services

(b) Flea markets

(c) Bowling alleys and pool halls

(d) In the CS District portions of the corridor:

(1) The following uses shall be permitted only through the issuance of a special use permit:

- a. Automobile and truck dealers
- b. Automobile renting and leasing
- c. Automobile repair shops
- d. Automotive services
- e. Boat dealers, including repair
- f. Building materials dealers
- g. Contractor's equipment dealers
- h. Fuel and ice dealers
- i. Motor freight companies
- j. Movers, van lines and storage
- k. Package delivery services
- l. Recreational vehicles dealers
- m. Shipping brokers, freight and cargo
- n. Warehousing, general
- o. Wholesale trade of durable and nondurable goods

(2) The following uses shall be prohibited:

- a. Bowling alleys and pool halls
- b. Bus and taxi services
- c. Communications facilities
- d. All contractors (residential, special trades, etc.) with open storage of materials
- e. Drive-in theater
- f. Electric motor repair
- g. Fruit and vegetable market, wholesale
- h. Garbage collection, private
- i. Laundries, industrial
- j. All manufacturing uses
- k. Marina
- l. Mini-warehousing
- m. Manufactured housing dealers
- n. Railroad facilities
- o. Ship chandlers
- p. Small engine repairs
- q. Veterinary services with open pens
- r. Water transportation
- s. Welding, repair

(e) In the LM District portions of the corridor, all non-manufacturing uses shall be prohibited, except the uses listed below:

- a. Accessory uses in accordance with Article 6 of this chapter
- b. Contractors uses, except no outdoor storage of materials
- c. Governmental uses
- d. Internal service facilities
- e. Offices, professional
- f. Parks and recreation areas, municipal

- g. Utility stations and plants outside public rights-of-way (public and private) including lift stations, substations, pump stations, etc
- (h) New residential and commercial development on Dawson and Wooster Streets shall be encouraged to utilize shared driveways where possible so as to limit the total number of driveway connections to the thoroughfares.
- (i) All street yard landscaping required under Article 8, Division IV of these regulations shall conform to the requirements of the entryway landscaping plan with regard to appropriate spacing and types of plant materials.

### **Sec. 18-213.2 Wrightsville Avenue Corridor Regulations**

In addition to the general and specific regulations imposed by this chapter on the use of property in the Wrightsville Avenue corridor (defined herein as all property fronting on or utilizing for its primary ingress and egress the portion of Wrightsville Avenue between North 17th Street and Oleander Drive/Military Cutoff Road), the following regulations shall apply.

(a) For new nonresidential and multiple family development within the Wrightsville Avenue corridor, the following design standards shall apply:

(1) Building scale--New nonresidential or multifamily structures in the Wrightsville Avenue Corridor Overlay shall not exceed three thousand (3,000) square feet or twenty-five (25) percent of the lot coverage of the site, whichever is less. Proposed structures exceeding these dimensions would be available only with a special use permit subject to the prerequisite design standards outlined in Appendix C of the Wrightsville Avenue Land Use Plan that was adopted by City Council on February 20, 1990. A Special Use Permit shall not be required for expansions to existing buildings when the proposed expansion does not exceed five percent (5%) of the size of the existing structure. For consecutive expansions within a two-year period, the amount of the expansions shall be summed.

(2) Exterior Building Materials--Exterior building materials for all new nonresidential or multifamily structures in the Wrightsville Avenue Corridor Overlay shall be limited to the following:

- a. Wood frame.
- b. Stucco.
- c. Brick.
- d. Shingles.
- e. Vinyl, masonite or aluminum siding designed to resemble wooden lap siding or shingles.
- f. A combination of the listed materials.

(3) Roof pitch--All new nonresidential or multifamily structures in the prescribed Wrightsville Avenue Corridor Overlay shall be limited to a 4:12 or higher pitch roof.

(4) Facade orientation--The orientation of all new nonresidential or multifamily structures in the Wrightsville Avenue Corridor Overlay shall follow the dominant orientation of structures along the block face in which the structure is located.

(5) Location of off-street parking--All new nonresidential or multifamily structures in the Wrightsville Avenue Corridor Overlay shall locate the required off-street

parking in the interior side or rear yard of the sites. No off-street parking shall be located in the front or corner side yard of the site.

(6) Front setback of proposed new construction--All new nonresidential or multifamily structures in the Wrightsville Avenue Corridor Overlay shall be setback a minimum of twenty (20) feet from the Wrightsville Avenue street right-of-way. In those instances in which adjoining properties have a setback less than the specified twenty (20) feet, new nonresidential construction may be placed in alignment with the average setback of existing structures along the block face in which the new structure is located.

(7) Building height--All new nonresidential or multifamily structures in the Wrightsville Avenue Corridor Overlay shall be built to a height no greater than two (2) stories or twenty-five (25) feet in height, whichever is greater.

(8) Site lighting--All new nonresidential or multifamily developments in the Wrightsville Avenue Corridor Overlay shall be restricted to site lighting of the following height:

a. Unrestricted lighting--Ten (10) feet.

b. Ninety (90) degree cutoff lighting--Fifteen (15) feet.

(9) Signage--All nonresidential property in the Wrightsville Avenue Corridor Overlay shall be subject to the sign size and setback standards for the Office and Institutional District with regard to freestanding signs. In addition, freestanding signs shall be a maximum height of twelve (12) feet. No internally illuminated freestanding signs shall be permitted. Existing signage shall be subject to amortization within eight (8) years of adoption of this Corridor Overlay.

(10) Streetscape Architectural Components--All new nonresidential or multifamily structures in the Wrightsville Avenue Corridor shall contain door and window openings consistent with those found in the adjacent streetscape. Blank facades shall not be permitted on the Wrightsville Avenue frontage of the structure.

(b) For all conversions or additions to existing structures for nonresidential or multiple family uses, the following design standards shall apply:

(1) The construction of an addition to existing structures in the corridor shall be placed in the rear of the structure where site dimensions and orientation permit. The size and scale of the addition shall be limited in size so that the addition shall contain no more than fifty (50) percent of the square footage of the original building.

(2) The attached addition shall be designed in a manner that is compatible with the new use to which the structure will be placed, and shall also be designed for compatibility with the structure itself, and with buildings in the adjacent neighborhood or immediate streetscape. The design may be contemporary in nature, but should reference design features from the original structure including building materials, building openings and height. The addition shall not be constructed of materials not found in the existing streetscape, shall not feature blank facades, and shall not be out of scale with the original building.

(3) The urban design standards for new construction (see Sec. 18-213. CO, Corridor Overlay Districts. shall be observed for building scale, off-street parking, front setback, building height, site lighting and signage.

(c) For all new construction, conversions and/or additions involving nonresidential uses on corner or double frontage lots, driveway access to Wrightsville Avenue shall be prohibited, except where such access would conflict with the provisions of Sec. 18-551(d) or except where the lot is located at a signalized intersection of Wrightsville Avenue with a U.S. or N.C. numbered highway, as designated on the Wilmington Area Thoroughfare Plan, and where said lot's primary frontage is on the thoroughfare street.

(d) In the O&I, Office and Institutional District portions of the corridor:

(1) The following uses shall be permitted only with a special use permit:

- a. Business services
- b. Child day care
- c. Religious institutions
- d. Libraries
- e. Post office
- f. Restaurant--standard
- g. Spas and health clubs
- h. Telephone communication facilities
- i. Veterinary services with enclosed pens

(2) The following uses shall be prohibited:

- a. Banking services
- b. Convenience food stores
- c. Funeral homes and crematories
- d. Furniture stores
- e. Golf course, private or public with related services, including pro shops
- f. Labor unions
- g. Motels and hotels
- h. Restaurant, fast food carry-out
- i. Service stations
- j. Social services, not elsewhere classified

(e) In the CB, Community Business District portions of the corridor:

(1) The following uses shall be permitted only with a special use permit:

- a. Associations or organizations: civic, social or fraternal
- b. Auxiliary uses and wares
- c. Business services
- d. Child day care
- e. Contractors office with no open storage of materials
- f. Laundries, no drive-up windows
- g. Libraries
- h. Post office
- i. Restaurant--standard
- j. Spas and health clubs
- k. Telephone communication facilities

- l. Veterinary services with enclosed pens
- (2) The following uses shall be prohibited:
- a. Arcades
  - b. Associations or organizations: civic, social or fraternal
  - c. Automotive services, except repairs
  - d. Bowling alleys and pool halls
  - e. Commercial divers
  - f. Convenience food stores
  - g. Grocery stores
  - h. Flea markets
  - i. Funeral homes and crematories
  - j. Furniture stores
  - k. Gun sales, including repair
  - l. Liquor stores
  - m. Mini-warehouses
  - n. Motels and hotels
  - o. Motion pictures production
  - p. Movie theaters
  - q. Outdoor advertising signs
  - r. Restaurants, fast food carry-out
  - s. Service stations
  - t. Skating rink, roller or ice
  - u. Tire dealers and service
- (f) In the CS, Commercial Services District portion of the corridor:
- (1) The following uses shall be permitted only with a special use permit:
- a. Auto care centers
  - b. Automobile and truck dealers
  - c. Automobile renting and leasing
  - d. Automobile repair shops
  - e. Auxiliary uses and wares
  - f. Boat dealers
  - g. Building materials dealers
  - h. Business services not elsewhere classified
  - i. Contractors' equipment dealers
  - j. Fuel and ice dealers
  - k. Launderers, no drive-up windows
  - l. Motor freight companies
  - m. Movers, van lines and storage
  - n. Package delivery services
  - o. Recreational vehicles dealers
  - p. Restaurant--standard
  - q. Shipping brokers, freight and cargo
  - r. Spas and health clubs



- s. Warehousing, general
- t. Wholesale trade of durable and nondurable goods

(2) The following uses shall be prohibited:

- a. Arcades
- b. Associations or organizations: civic, social and fraternal
- c. Automotive services
- d. Bowling alleys and pool halls
- e. Bus and taxi services
- f. Commercial divers
- g. Communications facilities
- h. Convenience food stores
- i. All contractors (residential, special trades, etc.) with open storage of materials
- j. Drive-in theater
- k. Electric motor repair
- l. Fruit and vegetable market, wholesale
- m. Furniture stores
- n. Garbage collection, private
- o. Grocery stores
- p. Gun sales, including repair
- q. Launderers, industrial
- r. Liquor stores
- s. Manufacturing (all types)
- t. Marinas
- u. Mini--warehousing
- v. Manufactured housing dealers
- w. Nightclubs
- x. Outdoor advertising signs
- y. Railroad facilities
- z. Restaurants, fast food-carry-out
- aa. Service stations
- bb. Ship chandlers
- cc. Small engine repairs
- dd. Veterinary services with open pens
- ee. Water transportation
- ff. Welding, repair

**Sec. 18-213.3 South 17th Street/Independence Boulevard Corridor Regulations**

In addition to the general and specific regulations imposed by this chapter on the use of property in the South 17th Street Study Area (the boundaries are shown, map 1. study area boundary, in the South 17th Street Land Use Plan Update) approved by the Wilmington City Council on June 3, 1997 (hereinafter "Land Use Plan Update"); generally the area is bounded by Shipyard Boulevard, South 17th Street Extension,

Independence Boulevard, George Anderson Drive, and Carolina Beach Road (hereinafter the "study area"), the following regulations shall apply.

(a) For all new residential and nonresidential construction within the study area, the following standards shall apply:

(1) *Administrative.*

- a. No use which requires a special use permit based on the underlying zoning district regulations shall be allowed within the study area except for planned unit developments (PUDs).
- b. The inspection and maintenance plans or agreement(s) required under Sec. 14-797 herein for regional retention ponds shall specify the percent of impervious surface permitted for the undeveloped areas.
- c. Traffic impact studies shall be required for all use or zoning changes which increase density or change residential use or zoning to nonresidential use or zoning. The cost of such studies shall be paid by the applicant for the use or zoning change.
- d. Based on the above traffic impact study, any development proposal which requires improvements to be made to the existing roadway system in the study area to accommodate the development shall be made by the owner, or a payment in-lieu of such improvement based on the cost of the required improvements, shall be made to the City of Wilmington to cover the cost of the improvements.
- e. The owners or developers shall construct acceleration/deceleration lanes to all driveways along Independence Boulevard and South 17th Street where deemed necessary by the City.
- f. The owners or developers shall provide pedestrian access as an interconnected network of sidewalks throughout the study area.

(2) *Character/design.*

- a. The owners or developers of property in the study area shall provide for underground utilities.
- b. Signs shall comply with the underlying zoning district regulations.
- c. All developments shall be in compliance with the greenway plan presented to the City Council on March 3, 1992.
- d. The dedication of a network of bikeways and open space in compliance with Sec. 18-383 herein is the minimum required to comply with the greenway plan.
- e. There shall be a variety of housing types and price ranges throughout the study area including:
  1. apartments
  2. condominiums
  3. duplexes
  4. garage apartments
  5. quadraplexes
  6. residential above retail stores or offices
  7. single family detached
  8. townhouses

9. triplexes

Affordable housing shall be interspersed throughout the development. Affordable housing is defined as such housing which can reasonably be expected to [be] purchased or rented by persons having income between 80% and 110% of the median income, based on local income levels and prevailing interest rates as provided by the U.S. Department of Housing and Urban Development.

(3) *Districts and uses.*

- a. *Regional business and community business.* In the Regional Business District and Community Business District, off-street parking must be located away from street frontage and in the interior of the lot unless the City's planning staff, in the course of site approval, makes a finding that parking between the building and the front set back line will serve the use more effectively than an interior location.
- b. *Multiple family residential-low density.* In the multiple family residential low density use portion of the study area, no structure shall exceed thirty-five (35) feet in height. The required off-street parking may be located below the buildings and shall be buffered so as not to be visible from the roadways.
- c. *Single family residential-low density.* In the low density single-family residential use portion of the study area, golf courses, and any related shops shall not be allowed. No garages, carports or parking slabs shall be allowed within the front yard of any single-family lot. A garage, carport or parking slab placed in an interior side yard shall be even with the front elevation of the principal structure or located behind or adjacent to the rear elevation of the principal structure.
- d. *Minimum buffer.* In the study area, a minimum fifty (50) foot buffer shall be provided along Carolina Beach Road in the multifamily, NR and O&I uses or districts and along South 17th Street in the multifamily uses or districts and surrounding the retention/detention ponds on Independence Boulevard and near Carolina Beach Road.
- e. *Planned development district (PD) regulations.* The Planned Development District (PD) is established within the study area as a zoning district. In addition to the other study area regulations and standards, an owner/applicant shall develop a tract in the PD District in accordance with the following regulations:
  1. *Purpose.* The Planned Development District is established within the study area as a zoning district to foster the mixture of residential, business, retail, office and institutional uses, which will provide living, working and shopping in close proximity and a sense of community. It is designed to promote economical and efficient patterns of land use which are sensitive to natural features and site amenities and which decrease automobile travel time and trip length and increase other modes of travel such as walking and bicycling. The PD District is intended to provide flexibility for

innovative design and quality planning by permitting planned development in accordance with the land use plan update.

2. *Minimum Planned Development District (PD) size.* The minimum planned development size shall be a contiguous gross land area of one hundred (100) acres or more under common ownership or control of the applicant. Land areas greater than two hundred fifty (250) acres may be developed as multiple PD's, each individually subject to all of the standards. The PD is a major subdivision as defined in Article 15 herein. A (PD) may be developed in phases.
3. *Land use mixture.* The PD should be compact with a variety of building types to accommodate a mixture of uses and to conserve open land. Ranges of land use mixtures are allowed in the PD as follows:

Residential	25-80%
Single Family Development:	
Low density (up to 2.9 units/acre)	5-15%
Medium density (up to 6.2 units/acre)	5-15%
High density (up to 8.7 units/acre)	5-15%
Multiple Family Development:	
Low density (up to 9.7 units/acre)	10-20%
Medium density (up to 17.4 units/acre)	5-20%
Neighborhood Retail	5-15%
Office & Institutional	5-10%
Open Space	20-30%

The mixture of these land uses shall be consistent with the land use plan update. However, the location of each land use may change from what is shown on the adopted land use map ( *Map 6. Zoning & Recommended Land Use*). Similar land uses should face across streets. Dissimilar uses should abut to rear lot lines.

4. *Office and institutional.* In the office and institutional use portion of the study area adjacent to Carolina Beach Road and in the office & institutional use portion of the study area located south of the intersection of Independence Boulevard and South 17th Street only the following uses shall be allowed:
  - a. Accessory uses in accordance with Article 6 of this chapter
  - b. Apartment above office or institution
  - c. Assisted living care facility\* - elderly

(\*An assisted living care facility-elderly is an establishment primarily engaged in the provision of residential, social and personal care for the elderly who have some limits on their ability for self-care, but where medical care is not a major element of the services provided at the facility.)

- d. Banking services
  - e. Business services
  - f. Religious institutions
  - g. Cultural arts center, including theaters, offices, classrooms
  - h. Day care facilities: child, adult
  - i. Libraries
  - j. Medical offices
  - k. Offices, professional
  - l. Personal services, not elsewhere classified
  - m. Post office
  - n. Social services
  - o. More than (1) one principal use is allowed on a lot.
  - p. Access to the O&I uses south of the intersection of Independence Boulevard and South 17th Street shall be limited to the collector street of Independence Boulevard except for vested access points.
5. *Density and garage apartments.* Density in the PD is determined by the underlying land use. The maximum density allowed for the traditional neighborhood Planned Development District (PD), which is located south of George Anderson Drive, shall be eleven point nine (11.9) units per acre. Garage apartments are permitted, subject to current regulations for garage apartments except the gross number square footage of the garage apartment shall not exceed nine hundred (900) square feet. The style and architecture of a garage apartment shall be similar to the principal dwelling. There shall only be one garage apartment per lot.
6. *Maximum building height.* The maximum building height within the PD is two (2) to three (3) stories with a maximum height of thirty-five (35) feet, whichever is less.
7. *Pedestrians and bicyclists.* A comprehensive pedestrian and bicycle network of sidewalks and paths shall link uses to each other to minimize walking distances and reduce dependence on the automobile for travel within the PD and adjoining areas to the extent feasible. Street furniture such as trash containers and benches shall be permanently secured.
8. *Streets.* All streets, except alleys, within the PD shall follow a pattern of intersecting streets that provide alternative routes. All streets, alleys, and sidewalks shall connect to existing and projected streets outside the PD. The average perimeter of blocks created by the intersection of streets within the PD shall not exceed one hundred thirty (130) feet. Such a block face shall not have a length greater than four hundred (400) feet without an alley, sidewalk or bikeway providing through access to another street or alley. Cul-de-sacs are allowed only where interconnection would

result in an adverse environmental impact. Street pavement widths within the PD may be less than that required by the City's technical standards and specifications manual if such streets are determined by the RC and SRB to be adequate to provide public services such as garbage collection and fire protection. A two-way collector street with parallel parking on both sides shall be no less than thirty-six (36) feet in width from curb to curb. A two-way neighborhood street with parallel parking on one side shall be no less than twenty-six feet in width from curb to curb.

9. *Alleys.* There shall generally be a continuous network of alleys to the rear of lots within the PD. Alleys shall be combined with utility easements. Where possible, utilities shall be located in rear easements. Water and sewer lines should be located in the street rights-of-way or alleys.

Parks, squares or greenways shall not be bounded by alleys. Alleys in the Neighborhood Retail Use shall provide sufficient access for loading, parking and refuse collection.

10. *Street lighting.* Street lighting shall be restricted to site lighting of the following height:
  - i. Unrestricted lighting - ten (10) feet
  - ii. Ninety (90) degree cut - off lighting - fifteen (15) feet.
11. *Landscaping.* In addition to other landscaping requirements, trees shall be planted within right-of-ways or residential front yards parallel to the street along all streets, except alleys. Tree spacing shall be determined by species type.
12. *Parking.* Off-street parking lots shall be located at the rear or at the side of buildings. Adjacent parking lots shall be connected by an alley. Off-street parking requirements may be reduced by using shared parking where possible.
13. *Signs.* Sign regulations for the underlying use in the PD District, other than Neighborhood Retail use, shall be the same as the sign regulations for the zoning district of the same name.
14. *Greenspace.* In the PD a minimum of twenty (20) percent of the land shall be dedicated for the purpose of providing park, recreation and open space areas to serve the PD community in accordance with Sec. 18-383 of the Land Development Code.
15. *Pre-application.* Prior to an applicant submitting an application and a detailed preliminary plan for review and approval, the applicant shall arrange a pre-application conference with the City's planning staff and technical review committee (TRC) to review the applicant's sketch plan.
16. *Application plan and approval.* The applicant for a PD shall submit an application and a detailed, unified preliminary master plan for the planned development to the City's planning staff, SRB and TRC for review and approval in accordance with the

provisions of Article 7 and Sec. 18-60 of this chapter. In addition to these requirements, the applicant shall include in the preliminary plan the following:

- a. Access
- b. Architectural features of structures
- c. Bikeways
- d. Circulation
- e. Design guidelines for the development
- f. Environmental analysis
- g. Historic features, i.e., Civil War battleground signs
- h. Landscaping, including tree species, size and extent of tree cover
- i. Location, use, types, massing, scale and dimensions of structures
- j. Open space
- k. Recreational areas and parks
- l. Stormwater plans and calculations
- m. Traffic impact study

Following the City's planning staff, TRC and SRB review and approval, the applicant shall prepare and submit the final plat for approval in accordance with Article 3, Division III of this Chapter. The final plat shall contain the following notation: "This plat has been approved as part of a planned development in accordance with Sec. 18-213. CO, Corridor Overlay Districts. of this Code."

17. *Minor changes to approved PD.* Minor changes to the approved final plat and master plan for the PD are changes proposed by the applicant that do not change the basic design and development concepts of the PD. Minor changes to approved preliminary plans are allowed on final plats if the changes are in substantial compliance with the preliminary plan. Denial classifies such changes as major changes in plans and a new preliminary plan must be submitted or the major change reworked so as to be classified as a minor change. Minor changes to final plats and master plans require the review and approval of TRC and the City planning director.
18. *Major changes to approved PD.* Major changes to the approved final plat and master plan for the PD are changes that require resubmission of the plat and plan for review and approval as set forth in Sec. 18-213. CO, Corridor Overlay Districts.
19. *Variances.* Variances may be sought from the board of adjustment for dimensional requirements within the PD such as minimum street right-of-way width and pavement width.
20. *In the PD District, a Neighborhood Commercial use is established:*

- i. *Neighborhood Commercial Use (NC) purpose:* The Neighborhood Commercial use is established to provide commercial opportunities for small-scale pedestrian-oriented commercial centers. These commercial centers shall be designed to provide goods and services primarily to the immediate surrounding neighborhood. Primary access for these commercial centers shall not be from a major thoroughfare. The size of each unit in a building in the NR use shall not exceed six thousand (6,000) square feet, except that grocery stores may be up to fifteen thousand (15,000) square feet. The building footprint shall not exceed twenty-five thousand (25,000). Each site within the Neighborhood Retail District shall provide a minimum of ten (10) percent of the land area of the site as usable open space.
- ii. *Neighborhood Commercial Use (NC) regulation:* The orientation of the buildings within the NR use shall be away from any major thoroughfare and towards the neighborhood. The rear elevation of these buildings shall be similar to the front elevation of the building. The design of the buildings shall conform to the residential character of the surrounding neighborhood. Apartments may be located above all businesses and offices. The maximum building height in the NC use shall be two (2) to three (3) stories not to exceed thirty-five (35) feet. Spires and towers may exceed such maximum height limit.
- iii. *Neighborhood Commercial Use (NC) permitted uses:*
  1. Residential housing types:
    - a. Residential above retail or office use
    - b. Multiple family, including townhouses  
(See Sec. 18-551)
  2. Related Residential Uses:
    - a. Accessory structures or uses in accordance with Article 6 of this chapter
  3. Nonresidential:
    - a. Accessory uses in accordance with Article 6 of this chapter
    - b. Accounting offices
    - c. Banking services
    - d. Bicycle shops, including repairs
    - e. Business services
    - f. Child day care
    - g. Convenience food stores



- h.* Cultural arts center, including theaters, offices, classrooms, etc.
- i.* Grocery stores
- j.* Laundry, and dry cleaning services
- k.* Lawn and garden stores
- l.* Libraries
- m.* Museums, art galleries
- n.* Parks and recreational areas, municipal
- o.* Photography studios
- p.* Personal services
- q.* Post office
- r.* Radio and television repair
- s.* Retail sales establishments
- t.* Religious institutions
- u.* Restaurants: standard
- v.* Shoe repair shops
- w.* Tailors or dressmakers, custom
- x.* Watch, clock and jewelry repairs

iv. *Neighborhood Commercial Use (NC) parking:* In conjunction with the Neighborhood Retail Use, some off-street parking requirements may be met by on-street angular or parallel parking. If on-street parking directly fronts a lot, it shall count toward fulfilling the parking requirement of that use. One parking space credit shall be given for every space in front of a use. Street trees shall be planted within the parallel and angular parking lanes. There shall be no more than fifteen (15) parallel or angular parking spaces without a landscaped peninsula separating such spaces. The landscaped peninsula shall be the size and configuration of one parking space.

v. *Neighborhood Commercial Use (NC) parking facilities landscaping:* Site development shall include the following parking facilities landscaping requirements reflecting the amount of impervious surface which is proposed:

Impervious Surface (sq. ft.)	Required Interior Landscaping (Percent)
0--10,000	8
10,000--25,000	10
25,000--50,000	12
50,000--100,000	14
100,000 +	16

Parking facilities landscape peninsulas shall be at least ten (10) feet in width, measured from the back of curb/barrier to back of curb/barrier.

- vi. *Neighborhood Commercial Use (NC) signs:* Signs permitted in the Neighborhood Retail Use are as follows:
    - 1. *External illumination:* External illumination, if used, shall not be blinking, fluctuating or moving.
    - 2. *Free standing signs:*
      - a. Only two (2) free standing signs shall be allowed, one at the access from the arterial and one at the access from the collector street.
      - b. Height: Maximum five (5) feet.
      - c. Area of sign: Maximum thirty-five (35) square feet.
      - d. Material: Material shall be compatible with the surrounding neighborhood structures.
    - 3. *Wall signs:*
      - a. These signs shall only be externally illuminated.
      - b. Number of signs: Two (2) wall signs are allowed per occupancy - one (1) on the front elevation and (1) one on the rear elevation of the structure.  
Additionally, an awning shall be allowed with lettering no larger than twelve (12) inches in height.
      - c. Materials: Materials shall be compatible with the surrounding neighborhood structures.
      - d. Area of signs:
        - i. Front elevation: Any business shall be permitted one (1) square foot of sign surface area for each linear foot of building frontage.
        - ii. Rear elevation: Any business shall be permitted one-half (1/2) square foot of sign surface area for each linear foot of building frontage.
        - iii. Awning and under-canopy signs shall have a minimum clearing of nine (9) feet over any pedestrian area.
        - iv. All internal signage and/or street signage shall be consistent with the character of the neighborhood.
        - v. Signage within the Neighborhood Retail Use shall be reviewed by the City of Wilmington planning staff for compliance with these regulations.
- (4) *Yard requirement:*
- a. *Front yard requirement.* The minimum depth of any front yard shall be no less than the average front yard depth created by existing structures in the block fronting the same street. If there are no structures located in the block fronting the same street, the front yard shall be no less than fifteen (15) measured from the property line.
  - b. *Rear yard required.* The rear yard shall have depth of no less than twenty (20) feet.

- c. *Side yard required.* There shall be no side yard requirements except where the side yard is adjacent to residential structures, in which case the side yard shall be no less than twelve and a half (12.5) feet for a corner lot and eight and a half (8.5) feet for an interior lot.
  - d. *Building setback and separation.* Buildings located on the edge or periphery of the PD shall be set back a minimum of twenty (20) feet from the PD boundary. All buildings shall be set back at least ten (10) feet from all pedestrian and bicycle paths, twenty-five (25) feet from all public and private streets, and fifty (50) feet from any major thoroughfares. No building shall encroach upon the right-of-way of a proposed thoroughfare as designated by the Wilmington Area Thoroughfare Plan. In no case shall any part of a detached single family dwelling unit be located closer than ten (10) feet to any part of any other detached single family dwelling; and in no case shall any part of a multiple family dwelling unit be located closer than twenty (20) feet to any part of another dwelling unit, or nonresidential buildings.
- (5) *Other regulations:*
- a. *Fringe use area.* To ensure compatibility with adjoining land uses, a fringe use area, two hundred (200) feet in width, shall be established along the exterior property lines of the PD where the exterior property lines of the PD are adjacent to residential districts. If a fringe use area is required, only residential uses or open space shall be permitted within that fringe area. The maximum building height within the fringe use area shall be two (2) stories with a maximum height of thirty-five (35) feet. If the exterior property line of the PD is not adjacent to residential districts, then no fringe use area will be required.
  - b. *Varied housing types.* Varied housing types allowed within the PD include detached houses, assisted living care facilities, townhouses, patio houses, cluster houses, garage apartments, and apartments above the following uses: neighborhood retail, office and institutional.
  - c. *Barnard's Creek.* A fifty (50) foot buffer beginning from the mid-point of Barnard's Creek in the PD area be designated as non-buildable. Any required retention/detention facility serving development adjacent to Barnard's Creek will not infringe on the fifty (50) foot buffer or any 404 Wetland area.

**Sec. 18-214. Historic District-Overlay (HD-O)**

This Historic District-Overlay is hereby established pursuant to Article 19 of Chapter 160A of the General Statutes of North Carolina.

(a) *Purpose.* A Historic District-Overlay is established for the purpose of protecting and preserving areas which, as a result of their architectural significance, historic importance, or their overall aesthetic qualities, are important elements of the character and heritage of the City, county, and state; safeguarding the qualities of a Historic District-Overlay as a whole and individual property therein which embodies important elements of the Historic District-Overlay's social, economic, cultural or architectural traditions; promoting the conservation of the City's neighborhood resources for the continued use, education, pleasure and enrichment of the residents of a Historic District-Overlay, and the city, county, and state as a whole; and stabilizing property values within a Historic District-Overlay as a whole, and thereby contributing to the improvement of the general welfare of the City of Wilmington.

(b) *District provisions.* A Historic District-Overlay is established as a district which overlaps other zoning districts established by this chapter. The extent and boundaries of a Historic District-Overlay shall be indicated on the official zoning map for the City of Wilmington. While a Historic District-Overlay may overlap any zoning district classification or portion thereof established by this chapter, the existing land use provisions of the underlying district shall prevail in the development of any property within such district; provided, however, that before work is begun on any construction, alteration, demolition, relocation or any other activity commenced that would substantially alter the appearance or character of any appurtenant feature within a Historic District-Overlay, a certificate of appropriateness shall be issued by the Historic Preservation Commission prior to the issuance of any building or other permit required by the City of Wilmington.

(c) *Design exceptions in a Historic District-Overlay.* Only alterations, restorations, reconstructions, new constructions, relocations or demolitions that are visible from public rights-of-way, except that which is visible only from residentially-zoned public alleys, shall be required to obtain a certificate of appropriateness. Any principal structure used as a residence shall not require a certificate of appropriateness for the color of paint.

**Sec. 18-215. Conservation Overlay District (COD)**

(a) *Purpose.* The purpose of the Conservation Overlay District (COD) for conservation resources is to protect important environmental and cultural resources within the City. Protection of these resources is necessary to maintain the City's diverse and ecologically important natural systems; to preserve the City's estuarine systems important for fin fishing and shell fishing; to provide open space; and to retain the City's archaeological and historical heritage. These COD's shall be in addition to any other zoning districts where applied so that any parcel of land lying in a COD may also lie in one or more of the zoning districts provided for by this section. The development of all uses permitted by right or by special use permit in the underlying district, if any, shall be subject to the requirements of both the COD and the underlying district, if any. In the event that the COD requirements conflict with the underlying district requirements, the requirements of the COD shall take precedence. If requirements for a particular item are not specified in the COD but are specified by the underlying district, then the requirements of the underlying district shall be followed.

(b) *Applicability.* The development and improvement of property, including the subdivision of land, shall be subject to these performance controls if the parcel of record is located wholly or partially within a COD and if conservation resources are associated with the parcel on record as of February 2, 1999, the effective date of this section. The following uses, however, are exempted from these controls:

(1) The development of one single-family home detached structure, one residential duplex, or the location of two or fewer mobile homes on a parcel or lot.

(2) Commercial, industrial, office or institutional development involving a land disturbance of less than one (1) acre in area.

(3) The development or subdivision of a parcel that meets both of the following conditions:

- a. No part of the development or subdivision shall be located within a distance equal to or less than the setback distance of any conservation resource or space existing on the parcel or on a contiguous parcel of record.
- b. No part of the development or subdivision shall be located on any portion of the parcel that is part of the upper drainage basin for any conservation resource or space on the parcel or within the specified setback on a contiguous parcel of record.

(c) *Conservation resources.* If a parcel on record as of February 2, 1999, the effective date of this section, is associated with any one of the conservation resources having the minimum distinct areas listed below, then the parcel shall be subject to the following performance controls. Official maps of and information concerning these resources shall be maintained by and shall be available for review at the department of development services. These maps shall be updated as needed by the department of development services and shall serve as the official source by which to determine if a parcel is associated with conservation resources. A parcel is considered to be associated with a conservation resource if either the resource is contained partially or

wholly on the parcel or if the resource is located next to a parcel such that the resource setback extends into the parcel.

(1) Ecological resources; minimum distinct area:

- a. Swamp forest: 2.5 acres
- b. Pocosin: 2.5 acres
- c. Savannah: 2.5 acres
- d. Natural ponds: 0.1 acre
- e. Freshwater marsh: 0.1 acre
- f. Brackish marsh: 0.1 acre
- g. Primary nursery areas: 0.1 acre
- h. Barrier island-beach complex (including dunes): 0.1 acre
- i. Maritime shrub thickets: 1.0 acre
- j. Salt marsh: 0.1 acre
- k. Animal and plant natural areas of special significance: no limit

(2) Archeological/historical resources and cemeteries; minimum distinct area: no limit

Except for the uses exempted under Sec. 18-213. CO, Corridor Overlay Districts. above, if a parcel is associated with any one of the conservation resources described herein, no permit shall be issued under the New Hanover County Soil Erosion and Sedimentation Control Ordinance or Article 8 Division III of this chapter unless (i) the conservation resources have been delineated and (ii) the conservation resources will be protected consistent with the terms of this section. Except as exempted herein, no person, directly or indirectly, shall engage in a land-disturbing activity or remove any regulated tree from public or private property except in compliance with this section.

(d) *General performance controls for conservation space.* The following general performance controls for conservation space apply to all uses within a COD that are subject to controls as determined by Sec. 18-213. CO, Corridor Overlay Districts.

(1) Required amounts of conservation space. Conservation space is defined as that portion of the conservation resource that shall be preserved, as determined by this section.

(2) Conservation space may not be reserved provided the development or subdivision of the parcel meets the condition specified in Sec. 18-213. CO, Corridor Overlay Districts.

If the development or subdivision does not meet the condition specified in Sec. 18-213. CO, Corridor Overlay Districts.(5)(b), then the development or subdivision shall meet applicable drainage and setback regulations.

**WORKTABLE FOR DETERMINING REQUIRED CONSERVATION SPACE  
AND DEVELOPABLE LAND**

<b>Conservation Resource (Importance Value)</b>	<b>Acreage of Resource on Parcel (times)</b>	<b>Conservation Space Factor (equals)</b>	<b>Minimum Conservation Space</b>
Swamp Forest (5) (Min. 5 acres)		.5	
Pocosin (5) (Min. 5 acres)		.5	
Savannah (3) (Min. 5 acres)		.5	
Natural Pond (8)		1.0	
Fresh Marsh (6) (Min. 1 acre)		.8	
Brackish Marsh (9)		1.0	
Primary Nursery Area (13)		1.0	
Barrier Island-Beach Complex (11)		.9	
Salt Marsh (12)		1.0	
Important Historical/ Archeological Site (7)		.9	
Animal & Plant Areas of Special Significance (10)		1.0	
Cemeteries (13)		1.0	

Total Minimum Conservation Space\_\_\_\_\_

Total Parcel Acreage\_\_\_\_\_

Minus Total Minimum Conservation Space\_\_\_\_\_

Equals Maximum Developable Land\_\_\_\_\_

(3) Conservation space shall not be required to be reserved for the following resources unless the total acreage of minimum distinct areas on the parcel of record exceeds the following minimum:

<b>Resource</b>	<b>Total Aggregate Minimum Acreage</b>
Swamp Forest	5 acres
Pocosin	5 acres
Savannah	5 acres

Step One: List in column 2 the acreage of land occupied by each conservation resource named in column 1. If part of the parcel is occupied by more than one

resource, list the acreage occupied only by the resource with the highest ranking. Rankings are listed in column 1 in parenthesis next to the resource name.

Step Two: Multiply each of the listed acreage in column 2 by factors listed in column 3. Place each answer in column 4.

Step Three: Add the acreage in column 4 to determine total minimum conservation space required.

Step Four: Subtract the total minimum conservation space from the total gross parcel to determine the maximum amount of developable land.

The total amount of conservation space that shall be reserved shall be equal to or exceed the total minimum conservation space calculated in step three. The total minimum conservation space shall be allocated to and reserved for conservation resource areas in acreage equal to or exceeding the minimum acreage calculated for the resources in column four.

Conservation space shall be reserved in contiguous blocks or in close proximity to the greatest extent possible in order to prevent the scattering of such space and to increase effectiveness in their management.

(4) *Transfer of conservation space requirements between resource conservation areas.* In order to provide flexibility in site design, the minimum acreage of conservation space required in column 4 for any one conservation resource area may be reduced by any desired amount provided, however, that the minimum conservation space required for a different conservation resource area with an equal or higher ranking is increased by an equal or higher amount. For instance, assume that a parcel within a COD has ten (10) acres of swamp forest and fifteen (15) acres of fresh marsh. According to the worktable, swamp forest has a conservation factor of 0.5 and fresh marsh as a conservation of 0.8. Therefore, at least five (5) acres of swamp forest must be reserved as conservation space (ten (10) acres  $\times$  0.5 = 5), and at least twelve (12) acres of fresh marsh must be reserved (fifteen (15) acres  $\times$  0.8 = 12.0 acres). If the developer, however, wishes to develop seven (7) acres of swamp forest, he may transfer two acres of the conservation space requirement for swamp forest to the fresh marsh as fresh marsh has a higher importance value (6) than does swamp forest (5). As a result of the transfer, therefore, all fourteen (14) acres of the fresh marsh would be required to be preserved as conservation space while only three (3) acres of swamp forest would be required to be preserved.

(5) *Improvements.* Conservation space shall not be cleared of vegetation, shall not have its natural drainage system significantly altered, and shall not be developed in any manner that would negatively impact the conservation resource, with the following exceptions:

- a. Improvements that would either protect or enhance the enjoyment of the conservation resource. Such measures not causing significant impact include, but are not limited to, walkways, self-guided trails, protective fences, docks and boat ramps.
- b. Access to other parts of the parcel. If a part of the parcel may be developed but is inaccessible due to the existence of a conservation resource area, a road and/or utilities may be constructed through the conservation resource area. The road and/or utilities, however, shall be



designed to the greatest extent practical to minimize impact to the conservation resource.

- c. Access to the waterfront. If the entire waterfront along a parcel is inaccessible due to the existence of required conservation space, a boat ramp, or pier may be built for boating facilities in the conservation space, subject to relevant state and federal permits. The facilities, however, shall be designed to the greatest extent practical to minimize impact to the conservation resource.

(6) *Methods of conservation space preservation.* Conservation space may be preserved by any of the following means:

- a. Dedication of the conservation space or of a conservation easement in perpetuity to and acceptance by the City for use as parks, recreation areas, or other suitable public purposes, or
- b. Dedication for suitable public purpose of the conservation space or of a conservation easement in perpetuity to and acceptance by state or federal agency or by a private, nonprofit charitable organization qualified to accept such dedications in accordance with the Federal Internal Revenue Code.
- c. The owner of the parcel on record may retain sole ownership of the conservation space. The conservation space shall not be subdivided.
- d. The conservation space may become the property of a homeowner's association under the following conditions:
  - 1. Such conservation space shall remain undivided and no lot or unit owner or any other person shall bring any action for partition or division of any part thereof except as provided in G.S. Ch. 47A (Unit Ownership Act). Each lot or unit owner's undivided interest shall be preserved through covenants running with the land. Title to such areas shall be encumbered for the perpetual benefit of the public generally or the private properties in the development, and all future use shall be consistent with the conservation space requirements.
  - 2. All lots or units within the development shall have direct access to all conservation space as provided, by means of public streets or dedicated walkways or by the fact of physical contiguity to other public land or lands in common ownership of all residents. The developer shall not place age, race, creed, sex or economic restrictions (other than maintenance assessments) upon lot or unit owners for the use of said conservation space. Land which is restricted in any way so as to be for the use, benefit or enjoyment of a select group within the development shall not qualify as conservation space.
    - (i) The homeowner's association or the nonprofit organization shall be established before any lots are sold;
    - (ii) Membership shall be mandatory for each lot buyer, and any successive buyer;

- (iii) The association shall provide for liability insurance, any taxes and the maintenance of all grounds and facilities;
    - (iv) Any sums levied by the association that remain unpaid shall become a lien upon the lot owner's property.
- (7) *Design storm.* Stormwater runoff for the entire parcel will be managed by structures appropriately sized such that the peak rate of discharge from the site after completion of development for any storm up to and including the specified design storm, shall not exceed the peak rate of discharge from the site in its previous natural condition for the specified design storm. The design storm is specified as occurring once every ten (10) years and lasting for twenty-four (24) hours. Industrial, commercial, office or institutional development on a parcel one acre or less in size and with a maximum impervious to gross site area ratio of less than 0.2 shall be exempt from this control. Discharge of runoff from impervious surfaces for the entire parcel directly into natural water bodies shall not be allowed. Runoff shall be routed along vegetated swales, through filter media of vegetation, gravel, sand, or other media, or to detention ponds for purposes of increasing percolation, settling and filtering out of non-point pollutants and decreasing discharge velocity.
- (8) *Buffer strip.* Buffer strips shall not be extended through conservation space areas.
- (9) Historical and archaeological sites.
  - a. If a developer wishes to develop an historical or archaeological site, he shall either
    - 1. Provide for a thorough site investigation by a professional historian or archaeologist, as appropriate, who shall prepare a written report with the following information:
      - i. Description of the site.
      - ii. Relevant historical documentation/background research.
      - iii. Research design.
      - iv. Field studies as actually implemented including any deviation from the design and the reason for the deviation.
      - v. All field observations.
      - vi. Analyses and results.
      - vii. Information on the location of original data in the form of field notes, photographs, and other materials.
      - viii. Proof that adequate creation of artifacts and records to ensure their preservation and access for further study will be provided.
      - ix. Recommendation for further study and preservation of the site, given anticipated development.
      - x. Evaluation of the potential of the site for inclusion in the National Register of Historic Places. If the site is evaluated to have historical or archaeological significance and is eligible for the National Register, every reasonable effort shall be made in the development to preserve it; or
  - b. Give access rights for investigating the site and acquisition rights to artifacts to the development center or its designated agent for a period

of at least sixty (60) days between issuance of the building permit and any development of the property that would impact the site.

- (f) *Additional performance controls.* In addition to the general performance controls, additional controls shall be required to protect certain conservation resources in certain zoning districts. The Table of Additional Controls lists for each resource and district the reference number of the group of additional controls that shall be required. If the parcel being developed is associated with two (2) or more conservation resources with conflicting performance controls, then the most restrictive controls shall apply. However, improvements may be permitted within the conservation space setbacks. Additionally, decks may be allowed to encroach into the conservation space setback up to six (6) feet provided they are uncovered and constructed so that the floorboards are spaced to allow water to flow through directly to the ground. The ground below the deck shall be either left undisturbed or planted with ground cover or other vegetation.

**GROUPS OF ADDITIONAL PERFORMANCE CONTROLS BY  
REFERENCE NUMBER**

<b>Conservation Resource</b>	<b>Residential</b>	<b>Nonresidential</b>
Swamp Forest (Min. 5 acres)	4	3
Pocosin (Min. 5 acres)	4	3
Savannah (Min. 5 acres)	4	3
Natural Pond	3	2
Fresh Marsh (Min. 1 acre)	3	3
Brackish Marsh	2	1
Primary Nursery Area	2	1
Barrier Island-Beach Complex	2	1
Maritime Shrub Thickets	2	1
Salt Marsh	2	1
Animal and Plant (Natural) Areas of Special Significance	2	1

**GROUP 1:**

- (1) *Conservation space setbacks.* All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least one hundred (100) feet.
- (2) *Retention of runoff.* In addition to designing the site to control stormwater from a ten-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first one inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the development management division.

GROUP 2:

- (1) *Conservation space setbacks.* All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least seventy-five (75) feet.
- (2) *Retention of runoff.* In addition to designing the site to control stormwater from a ten-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first 0.75 inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the development management division.

GROUP 3:

- (1) *Conservation space setbacks.* All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least fifty (50) feet.
- (2) *Retention of runoff.* In addition to designing the site to control stormwater from a ten-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first 0.5 inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the City engineering department.

GROUP 4:

- (1) *Conservation space setbacks.* All structures and impervious surfaces shall be setback from the conservation space, if any, whether the space is located on the parcel or on an adjacent parcel, a distance of at least twenty-five (25) feet.
- (2) *Retention of runoff.* In addition to designing the site to control stormwater from a ten-year storm, on-site retention or percolation areas shall be required for the entire parcel sufficient to control, at a minimum, the first .25 inch of runoff that will originate from all impervious surfaces anticipated to be on the site upon final development. The specified amount of runoff from impervious surfaces shall be disposed of by percolation into the soil, evaporation, transpiration, or other methods of treatment or handling acceptable to the City engineering department.

(f) *Vegetated buffer controls for conservation lands.*

- (1) *Purpose and intent.* The establishment of a buffer zone is based upon the stated goals in Policies 3.10 and 3.11 of the 1998 Wilmington-New Hanover County Comprehensive Plan. The buffer zone is intended to promote the comprehensive plan goals of high water quality in the creeks and sounds, to protect the public health, and to ensure the protection of the natural resources of New Hanover County. A properly vegetated buffer is essential to filter and biologically process nutrient rich runoff, animal wastes, and sediment before it enters coastal creeks, canals, and rivers. Buffers also function to moderate water temperatures, maintain the desired dissolved oxygen levels in the water, and stabilize the soils immediately adjoining the stream. In urban environments, the function of a buffer is especially critical to the balance of

the plant and animal life in fresh and saltwater creeks. Buffers are most effective when they contain native and naturalized plants appropriate in size, adaptability (salt tolerance, wind tolerance, etc.) and hardiness for the area. Plants requiring intensive or routine maintenance should be avoided in buffer areas.

(2) *Applicability.* The development and improvement of property, including the subdivision of land, shall be subject to these performance controls if the parcel of record is located wholly or partially within a COD district and if the following conservation resources: salt marsh, brackish marsh, freshwater marsh, and/or primary nursery area are associated with the parcel of record as of the date of the adoption of this section.

(3) *Standards.*

- a. Buffer measurement. Buffers shall extend thirty-five 35 feet measured horizontally from the edge of the conservation resource and on line perpendicular to and landward of the conversation resource.
- b. Plant materials in the buffer. The plant material in the buffer zone must be either retained in a natural, minimally disturbed condition, or properly managed in accordance with the management standards presented in Sec. 18-213. CO, Corridor Overlay Districts.(f)(3)e. In cases where vegetation does not exist within the buffer, the City shall require restoration efforts which include, but are not limited to, replanting of the buffer zone with plant species as recommended in the "Reference Lists and Publications for Guidance in the Selection of Vegetated Buffer Plants".
- c. Development activities within the buffer. Development activities within the buffer are limited to water dependent structures, except as otherwise provided in Sec. 18-213. CO, Corridor Overlay Districts.(f)(3) Examples of water dependent structures include docks, piers, boat ramps, shoreline stabilization, navigation markers and access channels. In order to maintain the functional value of the buffer, excavation, grading, filing, or ditching is not permitted except as otherwise provided herein.
- d. Public recreational facilities within the buffer. Passive public recreational facilities such as pervious trails and pathways, where owned by public entities or homeowners associations, may be permitted within the buffer.
- e. Management activities within the buffer. In order to achieve the City goals to preserve, protect and restore water quality and natural resources, the buffer zone shall be vegetated and left in a natural, undisturbed condition, or managed in accordance with the intent of these goals. Management activities compatible with the intent of these goals include, but are not limited to the following:
  1. Shoreline access paths: Pathways which provide access to the shoreline are permissible provided they are a maximum average of six (6) feet in width and follow a path that minimizes erosion within the buffer zone. Pathways may be vegetated with grasses

and mowed, or may be surfaces such as crushed stone, shell, or mulch. Elevated wooden walkways and stairs up to six (6) feet in width may also be used, as long as there is spacing between boards and elevation of the walkway to provide for light penetration and rain water to drip through to allow for continued vegetation growth.

2. View corridor: Selective tree removal, thinning, and pruning of natural vegetation within the buffer zone will be allowed to provide for site lines and vistas of the shoreline. Minimal alteration of the natural vegetation is preferred.
3. Safety and welfare: Selective tree removal, thinning, and pruning of natural vegetation within the buffer zone will be allowed at the discretion of the landowner for safety and welfare concerns (e.g. removal of damaged tree in close proximity to a dwelling).
4. Shoreline erosion control: For necessary shoreline erosion control projects, trees and woody vegetation may be removed and the erosion control measure employed in a manner which is consistent with the purpose and intent of this section. Areas cleared for erosion control measures may be required to be re-vegetated with plant species as recommended in the "Reference Lists and Publications for Guidance in the Selection of Vegetated Buffer Plants".
5. Habitat and species management: Management of natural vegetation within the buffer zone to enhance wildlife habitat, and control nuisance and non-native species may be allowed.
- f. Buffer encroachments. Buffers may be encroached by public roads, bridges, and utilities where no practical alternative exists to avoid encroachment. These structures should be designed consistent with the purpose and intent of this section.

**Secs. 18-216. through 18-225. Reserved.**

## Division IV-Conditional Zoning

### **Sec. 18-226. Purpose.**

Conditional zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. The following zoning district categories are conditional zoning districts:

Parallel conditional zoning districts (a parallel conditional zoning district is a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general district having a parallel designation or name.)

A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted land use plan, adopted area plans and other long range plans. The review process established in this division provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions which ensure compatibility of the use with the use and enjoyment of neighboring properties. A conditional zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period. A separate master plan approval process as described in this division may be utilized only when a proposal is located within an Large Infill or Redevelopment Priority Area as established in the Future Land Use Plan or the Corridor Plans as adopted.

### **Sec. 18-227. Plans and other information to accompany petition.**

(a) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition submitted by the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan, drawn to scale, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. The following information must be provided:

- (1) A boundary survey and vicinity map showing the property's total acreage, its zoning classification(s), the general location in relation to major streets, railroads, and/or waterways, the date, and north arrow;
- (2) All existing easements, reservations, and rights-of-way;
- (3) Approximate location on the site of proposed buildings, structures and other improvements;
- (4) Approximate dimensions, including height of proposed buildings and other structures;
- (5) Proposed use of all land and structures, including the number of residential units and the total square footage of any nonresidential development;
- (6) All yards, buffers, screening, and landscaping required by this chapter or proposed by the petitioner;
- (7) All existing and proposed points of access to public streets;
- (8) Delineation of areas within the regulatory floodplain as shown on the official flood hazard boundary maps for the City of Wilmington;
- (9) Proposed phasing, if any;
- (10) The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development;
- (11) Approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads and pedestrian walkways;
- (12) Generalized traffic, parking, and circulation plans;
- (13) Tree survey, if required by this chapter; and
- (14) Site inventory as required this Code.

*(b) Exception to site plan submittal for Infill or Redevelopment areas.*

(1) Within an Infill or Redevelopment Priority Area as established in the Future Land Use Plan, the applicant shall submit a master land use conceptual area plan in lieu of a detailed site plan. City Council approval of the master plan shall be required. Conditions from any adopted district, corridor, or area plan, including the Future Land Use Plan shall be adopted as part of the approval where appropriate. The site plan shall be approved by the technical review committee.

(2) *Submittal Requirements-Master Plan.* The master plan shall consist of the following:

- a. A boundary survey and vicinity map showing the property's total acreage, its zoning classification(s), the general location in relation to major streets, railroads, and/or waterways, the date, and north arrow
- b. A conceptual land area plan showing the location of all major land use types and the proposed maximum square footage for each use. This may be done in a bubble format showing the general location and relative arrangement of different land uses.
- c. Maximum building heights shall be delineated on the conceptual land area plan.
- d. The plan shall indicate all external access points
- e. Conceptual internal traffic circulation plan.
- f. The plan shall indicate proposed buffers.



- g. Generalized open space areas and stormwater facilities shall be indicated.
  - h. The applicant shall submit a text narrative indicating how the proposed plan confirms to conditions of any adopted area plan, corridor plan, or other long-range plan, including the Future Land Use Plan.
  - i. A traffic impact analysis shall be submitted based on the generalized land uses proposed. Maximum trip generation impacts shall be established as part of the plan.
- (4) *Submittal Requirements-Site Plan.* Once the *conditional zoning and master plan have been approved, the applicant may submit a site plan for approval in accordance with this chapter. The site plan shall be accompanied by the following information:*
- a. The applicant shall submit a text narrative indicating how the proposed site plan conforms to the adopted master plan.
  - b. For phased projects, the submitted site plan shall show the generalized location of vehicular and pedestrian accesses to additional phases.
- (c) The City Manager has the authority to waive any application requirement where the type of use or scale of proposal makes providing that information unnecessary or impractical.
- (d) In the course of evaluating the application, the City Manager, planning commission, or City Council may request additional information from the petitioner. This information may include the following:
- (1) Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
  - (2) Existing and general proposed topography, at four-foot contour intervals or less;
  - (3) The location of significant trees on the subject property;
  - (4) Scale of buildings relative to abutting property;
  - (5) Building elevations and exterior features of proposed development;
  - (6) Any other information needed to demonstrate compliance with this chapter; and
  - (7) Proposed number and location of signs.
- (e) The site plan and any supporting text shall constitute part of the petition for all purposes under this division.

**Sec. 18-228. Required community meeting before public hearing.**

Before a public hearing may be held on a petition for a conditional zoning district, the petitioner must file in the office of the city clerk a written report of at least one community meeting held by the petitioner. The community meeting shall be held prior to the planning commission's consideration of the petition. Written notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by policies approved by the City Council. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this section shall be considered by the City Council but shall not be subject to judicial review.

**Sec. 18-229. Approval of conditional zoning district.**

Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review applicable to general use district zoning decisions. In considering any petition for a conditional zoning district, the council shall act in accordance with Sec. 18-120, "Action by City Council." Conditional zoning district decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

The City Council may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the City Council holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing and no valid protest petition under G.S. 160A-386 was filed. If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period beginning on the first day of October prior to a municipal general election, but prior to the new City Council taking office, then the public hearing on such petition and any decision on such petition shall both be postponed until after the new City Council takes office.

**Sec. 18-230. Conditions to approval of petition.**

In approving a petition for the reclassification of property to a conditional zoning district, the planning commission may recommend, and the City Council request, that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the City Council may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the city, county or state, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the City Council. If for any reason any condition for approval is found to be illegal or invalid or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted to rezone the property to its previous zoning classification.

**Sec. 18-231. Effect of approval.**

(a) If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's classification, the approved site plan or master plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.

(b) If a petition is approved, only those uses and structures indicated in the approved petition and site plan or land use area indicated on the master plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to Sec. 18-232, alterations to approval. The changes to the site plan layout will not increase the number of structures.

(c) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CD" (for example "RB (CD)").

(d) No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and site plan for the district.

(e) Any violation of the approved site plan or any rules, regulations and conditions for the district shall be treated the same as any other violation of this Chapter and shall be subject to the same remedies and penalties as any such violation.

**Sec. 18-232. Alterations to approval.**

Except as provided in subsection (b) below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the zoning maps and shall be processed in accordance with the procedures in this chapter. Any changes that would be considered major changes under Sec. 18-89 herein shall be subject to this subsection.

(a) The City Manager shall have the delegated authority to approve an administrative amendment to an approved site plan. The City Manager shall have no authority to amend the conditions of approval of a petition. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan and that the change does not have a significant impact upon abutting properties. An administrative amendment shall not be subject to a protest petition pursuant to Sec. 18-121. Any decision must be in writing stating the grounds for approval or denial.

(b) The City Manager, however, shall always have the discretion to decline to exercise the delegated authority either because he is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and City Council consideration is deemed appropriate under the circumstances. If the City Manager declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and council decision.

(c) Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Upon an approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan as deemed necessary by the City Manager.

**Sec. 18-233. Review of approval of a conditional zoning district.**

It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three (3) years after the date of approval of the petition, the planning commission may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the planning commission determines that progress has not been made in accordance with the approved petition and conditions, the planning commission shall forward to the City Council a report which may recommend that the property be rezoned to its previous zoning classification or to another district.

**Secs. 18-234. through 18-245. Reserved.**